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Annie Besant



Charles Bradlaugh

In the High Court of Justice.

Queen's Bench Division, June 18th, 1877.

THE QUEEN

v.

CHARLES BRADLAUGH

AND

ANNIE BESANT.

(Specially Reported.)



LONDON:

FREETHOUGHT PUBLISHING COMPANY,
28, STONECUTTER STREET, E.C.

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LONDON

PRINTED BY CHARLES BRADLAUGH AND ANNIE BESANT,
28, STONECUTTER STREET, E.C.

P R E F A C E .

IT is as a contribution to the discussion of the Population Question that we issue this report of the prosecution against ourselves for publishing Dr. Charles Knowlton's pamphlet, entitled "Fruits of Philosophy." Dr. Knowlton's pamphlet, although an ably and carefully written essay by a thoughtful and scientific man, is not, of itself, of vital importance ; its importance lies in the fact that it is condemned—says Lord Chief Justice Cockburn—because it advocates prudential restraint to population, while also advocating early marriage. It is the advocacy of prudential checks *after* marriage that is now said to be a punishable offence. Many a better book than that of Dr. Knowlton might be written on the same subject to-day, for we have had 40 years of scientific improvement since "Fruits of Philosophy" was penned ; until, however, the judgment against Knowlton is reversed, no better book can be published, for doctors will not write, and publishers will not sell, a work which may bring them within the walls of a gaol. It was for the sake of free discussion that we published the assailed pamphlet when its former seller yielded to the pressure put upon him by the police ; it was not so much in defence of this pamphlet, as to make the way possible for others dealing with the same topic, that we risked the penalty which has fallen upon us. The accounts of the trial which have appeared in the daily and weekly papers have brought to the knowledge of thousands a great social question of whose existence they had no idea before this prosecution took place. Once more a cause has triumphed by the fall of its defenders. Once more a new truth has been spread every-

where by its persecutors, and has gained a hearing from the dock that it could never have won from the platform. It had been thought by many that the right to free discussion had been won by the gallant struggles of the earlier half of the present century; it was never dreamed that Lord Campbell's Act might be strained to include medical and scientific works; its author scouted the possibility of such misuse, and himself limited its object to the seizure of the foul literature of passion and sensuality. By the judgment in this cause every medical bookseller is put in jeopardy, and medical authors must find their own safety in the high price—and consequent restricted circulation—of their works. Ignorance has again become a cardinal virtue, and the tree of knowledge is again guarded by the fiery sword of the law.

What will be the ultimate issue of the struggle is certain; this battle will end, as every other such battle has ended, in the triumph of a Free Press. There is but one limit to that Freedom, and that is that slander and libel should be easily punishable by the law, so that the pen should not be permitted to vent private malice in assault on private reputation. The discussion of a question of ethics, of social science, of medicine, is an attack on no one; no one's reputation is injured by it; it can have nothing in it of the nature of slander. Such discussion has always been the medium of progress, and the right to it must be won at all hazards.

CHARLES BRADLAUGH.
ANNIE BESANT.

THE QUEEN

v.

CHARLES BRADLAUGH & ANNIE BESANT.

THE Lord Chief Justice took his seat at 10.30 A.M. precisely. The Solicitor-General, Sir Hardinge Giffard, Mr. Douglas Straight, and Mr. Mead appeared for the prosecution; Mrs. Besant and Mr. Bradlaugh appeared in person. On calling over by ballot the list of special jurymen, the following gentlemen answered to their names:—Alfred Upward, 16, Linden Gardens, N. H., gentleman; Augustus Voelcker, 39, Argyle Road, chemist; Captain Alfred Henry Waldy, 9, Stanhope Gardens, esquire; Thomas Richard Walker, 31, Colville Gardens, bank manager; Robert Wallace, 32, Lancaster Road North, gentleman; Edmund Waller, 33, St. Mary Abbott's Terrace, gentleman; Arthur Walter, 15, Queen's Gate Terrace, gentleman; Charles Alfred Walter, 7, Holland Road, gentleman; John Ward, 79, Ladbroke Grove, N.H., gentleman; Arthur Warre, 109, Onslow Square, Brompton, gentleman; and the two talesmen, who were afterwards added to make up the number, were George Skinner and Charles Wilson.

The Special Jury list having thus been called over, there were only eleven persons present who answered, and the eleventh made an application to the judge to be excused from serving as he was the director of a public company.

Mr. BRADLAUGH, rising, said: Before the jury are sworn, my lord—I think this will be the proper time—I have a motion to make to your lordship. The motion is to quash the indictment, on the ground——

THE LORD CHIEF JUSTICE: I do not think I can allow that. I am sitting here in *nisi prius*.

Mr. BRADLAUGH : My lord, the 14th and 15th Victoria, cap. 100, says, "That any objection to any indictment for any formal defect apparent on the face of the indictment shall be taken by demurrer or motion to quash such indictment before the jury shall be sworn, and not afterwards," and it is for a defect on the face of the indictment that I move to quash it.

The LORD CHIEF JUSTICE : Then you should move *in banco*, and not in this court. Surely that contemplates a motion *in banco*. What do you say, Mr. Solicitor?

The SOLICITOR-GENERAL : Yes, my lord, that is, as I take it, the meaning of these statutes. These pleadings here are in the Crown Office, and if the defendant was intending to demur he should have moved in that way, or by motion in court.

Mr. BRADLAUGH : I do not intend to demur, my lord, but I do intend to submit that, under the statute, my right to move to quash the indictment is clear, and I should respectfully insist——

The LORD CHIEF JUSTICE : Well, I will reserve that point.

Mr. BRADLAUGH : Then your lordship will reserve that point. Need I state to you the grounds?

The LORD CHIEF JUSTICE : No. I will reserve the point. If it is competent for me to hear the motion at all this will preserve your right.

Mr. BRADLAUGH : That will give us all I wish to obtain.

Mrs. BESANT : My lord, I presume that you will reserve it for me as well?

The LORD CHIEF JUSTICE : Oh, yes.

Mr. BRADLAUGH (handing in the Attorney-General's warrant) : Then I will pray a tales.

On this, the usher was sent for one common juryman to make up the mystic twelve.

The jury were about to be sworn, when

The LORD CHIEF JUSTICE said : This gentleman has a strong wish not to serve, as he is the director of a public company (indicating the juryman who had asked to be excused). If you have no objection to raise I will release him, as a tales has been prayed by Mr. Bradlaugh.

The SOLICITOR-GENERAL : If your lordship pleases.

A second common juryman was then added, and the jury were sworn in the usual way.

Mr. BRADLAUGH, handing up a number of copies of the

“Fruits of Philosophy,” said: It may be convenient for the Court—I have spoken to the Solicitor-General on the subject—if your lordship does not object—for the jury to have each a copy of the work in question.

The SOLICITOR-GENERAL: It will be very convenient indeed to do so, and it will render unnecessary the reading of certain passages out of the book.

The LORD CHIEF JUSTICE: It is absolutely essential that the jury shall be thoroughly possessed not only of the substance but of the actual language of the book.

The SOLICITOR-GENERAL: I quite agree in that, and cannot object.

Mr. MEAD, as the junior counsel, having formally stated the pleadings,

The SOLICITOR-GENERAL then commenced his address to the jury. He said: Gentlemen of the jury, the two defendants before you are indicted for having published an obscene libel, which is the form, according to our English jurisprudence, the criminal courts adopt for the purpose of preventing the dissemination of any matter which is calculated to destroy or corrupt the morals of the people, and, perhaps, it is not altogether immaterial that I should narrate to you, in the first instance, the mode in which this prosecution comes before you, because I cannot help feeling, and the magistrates who have moved in this prosecution probably could not help feeling, that, in itself, it is (I mean the prosecution) a thing which may produce mischief. I think, before the end of the case, it will be found it has produced mischief already; but the circumstances were such that those who, to some extent, possessed authority in the City of London, were put in the dilemma of either permitting this publication to be sown broadcast over the whole of the City, and to be placed in the hands of any person, however young, or else to institute this prosecution. Now, the circumstances were these: It would appear that a Mr. Watts had published (I believe some years ago) a book which he called the “Fruits of Philosophy; or, the Private Companion of Young Married Couples.” Probably, gentlemen, you never heard of it, and, happily, I think, I may say, the world had never heard of it until it was published in Bristol, and became the subject of an indictment there, and attention having been called to it, the defendants appear to have come to the conclusion that the result of that case was unsatisfactory, and

they determined to test the question whether persons were not entitled to publish that book (substantially it is the same book, as you will see presently) ; and, accordingly, they appear, having published a new edition, to have sent a memorandum to the magistrates and to the police in these words :—"From the Freethought Publishing Company, 28, Stonecutter Street, Farringdon Street, E.C. All orders to be addressed to the manager, Mr. W. J. Ramsey. March 23rd, 1877. To Mr. Martin, Guildhall.—Charles Bradlaugh and Annie Besant will attend at the above address to-morrow, from four to five o'clock, to sell the enclosed pamphlet." That is the pamphlet which is the subject-matter of this indictment. Then they sent a similar notice to Detective-Sergeant William Green :—"Charles Bradlaugh and Annie Besant will attend at the above address to-morrow, from four to five, to sell the enclosed pamphlet ; and this notice is sent to you officially to report to the superior person from whom you received instructions to prosecute in the case." Well, gentlemen, upon receiving this notice they proceeded to the place in question, without receiving any instructions ; but the authorities subsequently confirmed their action in the matter. They proceeded to the place, and purchased some of these pamphlets ; and the result is, that the question which, in truth, has to be decided by this indictment, is, whether or not the defendants were entitled to sell for sixpence this book, which I hold in my hand, to every person to whom it may occur that it is interesting, or amusing, or exciting to the morbid appetite, to purchase a book of this description. Upon the question (it sometimes is the question, of course, upon which matters of this sort turn) whether there has been any publication of the pamphlet, no question will arise here. The publication is of an absolute character. The sum sought to be charged is sixpence ; and the only question, therefore, which will remain for your decision, will be whether or not this is an obscene book.

THE LORD CHIEF JUSTICE : Is that quite so ? Is it not that the language, if it cannot be called obscene, is such that its effect might be to vitiate public morals ; and although the work in point of language may be perfectly free from any objection, still I think that then, in point of law, it would be a libel. A work may not be obscene, it may not be prurient, it may not be open to objection in that respect, and yet it might tend to subvert public

morality. I do not know that by public morality we mean only those rules which regulate the intercourse of the sexes. It involves every rule of human conduct. If a person, in a book, were to teach a thing recommended in certain cases, assassination, you could not characterise that as an obscene book. It would yet be open to the objection that the book tended to subvert public morals in the other acceptation.

The SOLICITOR-GENERAL : I was using the word obscene rather in the sense in which your lordship has used it—in the sense of depraving morals ; and in the case which I shall have to quote from, your lordship there uses the words : “Not using the word ‘obscene’ in the sense of involving any coarseness or vulgarity of expression, but as something which is calculated to destroy the morals,” in giving judgment in the case of the *Queen v. Hicklin*, vol. 3 of the Reports of the Queen’s Bench, page 371. That is the passage from which I am about to quote. The report commences at page 360, and your lordship, in giving judgment, said : “I think the test of obscenity is this : whether the tendency of the matter charged is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands it is likely to fall.”

The LORD CHIEF JUSTICE : What was the character of the book ?

The SOLICITOR-GENERAL : The character of the book there was of this sort, that it was a publication of a Protestant society, which had taken a very strong view against the impurity of certain questions asked and ideas suggested by the Roman Catholic priests in the confessional, and it quoted a variety of the doctors of the Romish Church, Sanchez, Loyola, and a great many others, and the Protestant Society in question had published this book for the purpose of showing how wicked and immoral and depraving was the institution, and it seems to me that your lordship’s words there are perfectly applicable to this case. The contention of obscenity seems to me to be exactly what I would suggest to the jury as applicable to the case before the court. Now, gentlemen, the book in question, as you will see, is a book comprehending in the edition with which we are dealing, forty-seven pages ; and that which had been described in the original book from which it is taken and which gave rise to this prosecution, as “the private companion of young married couples,” becomes in the edition to which your

attention will be called an "Essay on the Population Question," and the nature of the book—before I read any part of it, appears to me to be this—the writer contends that it is not an improper thing to gratify any animal passion which human nature may be susceptible of, that the gratification of the animal instincts in the commerce of the sexes produces in a great many instances an overcrowded population. The writer appears to contend that for the cure of that evil, and for the purpose of enabling persons to gratify their passions without that evil being so great as it is, and may be, in the world, it is lawful and proper, and expedient, to disseminate among the people a minute description of physical means whereby the population may be checked, that the commerce of the sexes may be permitted to continue, and that by various means which he minutely describes, the result of conception, and the consequent birth of children, may be averted.

The LORD CHIEF JUSTICE : I think it is hardly right to say that unless you introduce another element into the argument, which is that the restrictions which another celebrated writer on population pressed as the means of correcting the evil of excessive population was the restriction upon marriage, and the author of this book says : "That is wrong. Marriage—and marriage at an early stage of life—should be encouraged ;" but he argues that, as the effect of early marriage is to increase population, so those artificial means of preventing population should be resorted to, but you must not leave out one element of his reasoning, that he insists upon marriage, and does not profess to suggest these means of checking population as the reason why marriage may be dispensed with.

The SOLICITOR-GENERAL : I did not mean to represent that there was an actual mention of commerce between the sexes without marriage. Whether or not it might obviously suggest itself to persons who wished to gratify their passions without marriage, I will not say. I was about to say that marriage is continually mentioned in the course of the book. This was what I should be disposed myself to suggest as a mere colourable introduction of that which in terms suggests marriage, but which it will be for the jury, if they look at the whole scope and tendency of the reasoning, to consider whether it is more than a colourable—the introduction of the word marriage, from time to time, in the progress of the argument. But the argument which I was

dealing with was the mode in which it was suggested that the evils of over-population could be avoided by physical checks. (The Solicitor-General then briefly alluded to the contents of pages 11—18, 18—33, 44, and 38—41.) That is the nature of the book. The mode in which the subject is treated I am afraid you must hear more minutely hereafter. That is the scope and tenor of the arguments. As my lord has pointed out to you (and, indeed, as I had intended to point out to you), all this is put before the reader under—what, I should say, in speaking plainly—under the guise of philosophy. The writer professes to entertain deep sympathies with the poor curate, and the artisan, who is, by the circumstances of his life, unable to afford the means of the care and rearing of an enormous family. The book, I think it may be said, is carefully guarded from any vulgarity of expression; the whole tone of it is, as I say, under the guise of philosophy and medical science. Further, it may be said that the two defendants, who are the publishers, in the preface here, say that they are neither of them doctors, that they do not affirm the medical truths which are laid down by the author of the book, who, perhaps, I should have told you before, was a Mr. Knowlton, a medical man, and they profess, therefore, not to entirely assent to, or advocate, all the medical truths which the writer puts forward in the book; and, further, with respect to the philosophical proem which precedes the book, they profess to disagree with the propositions which appear in that part of the work.

THE LORD CHIEF JUSTICE: The book has been published in America, and was first introduced in this country forty years ago, I think?

THE SOLICITOR-GENERAL: I believe so, my lord. They further proceed to say they do not agree with some of the propositions in the philosophical proem, and which I rather think they say are mistakes. But what underlies apparently the whole thing, and what may be taken to be the principle of the defence here as far as one gathers is this: that it is a subject of interest, that the subject of the population, and the relations between the sexes, may involve a subject of deep national interest, and, therefore, the defence appears to be of this character: although we do not agree with some of the medical knowledge, and although we do not agree with all the philosophical proem, yet, as it is a subject of interest we claim a right to publish it, because, in the conflict of opinion,

and the discussion which may ensue, the truth ultimately may be elicited. That appears to me to be the main proposition underlying the whole of the contention, that they have a right to publish this work. Gentlemen, I will now read to you the preface, which will put you into possession, at all events, of the ground upon which the writer, or the publisher rather, in this case, feels himself at liberty to publish this broadcast all over the country.

(The Solicitor-General here read the preface at length, and, when he came to the words where the change of the sub-title is spoken of, he said : Gentlemen, that is the title which I will remind you was in its original form—"The Private Companion of Young Married Couples"—and that is now omitted. The Solicitor-General then read the preface to the end.)

Now, gentlemen, I have thought it right that you should be at once in possession of the defence which it is intended to suggest for the publication of the work in question, because I think it will be found that what may be called the ultimate object and intention of the persons publishing is not the question which you have to determine. Although there are many passages in this work which might be the subject of unfavourable commentary, I would rather have you believe that the persons publishing this work were actuated by the motives which their defence sets forth. But the question will still remain, whether they are justified in publishing and circulating in the wholesale and unrestricted way which I have pointed out to you, that which—if in the result you should be of that opinion—is an obscene work. Gentlemen, that question arose some few years ago, it is in fact very much in the course of discussion at the present moment, as I had occasion to observe in speaking of the case from which I am about to quote. A discussion took place some time ago on the subject of the confessional in the Romish Church, and it was a subject of the deepest interest both to those who took the Protestant view that the confessional was wrong, and to the Roman Catholic party, who were of opinion that it was a sacrament, and essential to the discipline of their church. This discussion, no one can deny, was fraught with most important consequences on each side, and on the one hand the directions which were given to confessors by doctors of the Roman Church were veiled in the comparative obscurity of a learned language. Those who took the other view thought themselves justified, and it was held by

courts before whom the question came that it ought to be assumed in their favour in the discussion of the question that they really did believe that, for the purpose of getting rid of the evil effects of the confessional, they were entitled to publish to everybody the sort of questions which it was urged confessors were authorized to put to those who were confessing in the confessional. It was argued on the one side : this is a most important public question ; this is a matter which affects the relations between the great Christian churches into which Christianity is divided, and, therefore, this is a matter of the greatest public concern, and should have the most absolute and unreserved publicity in discussing all that is relevant to the question. Gentlemen, that question came before this court, and I can do no better, I think, than read to you what was said upon that subject, because it seems to me to go to the very pith of the matter which we are at present discussing. Now here I might call to your mind the motive which is said to influence the persons who are publishing this book—viz., the motive of the general welfare of mankind, avoiding the evils due to the increase of the population, and the misery which it is said is inflicted on persons of small means who marry and are unable to sustain large families. There the object was to destroy what was considered to be a false system of theology, and now remembering that, I think I cannot do better than to read to you on that subject the judgment which my lord, who now so happily presides here, concurred in, as it was by the whole court present. The Solicitor-General then read as follows :—

“ We have considered this matter, and we are of opinion that the judgment of the learned Recorder must be reversed, and the decision of the magistrates affirmed.” This was a proceeding under 20 and 21 Vict., c. 83, s. 1, whereby it is provided that in respect of obscene books, &c., kept to be sold or distributed, magistrates may order the seizure and condemnation of such works in case they are of opinion that the publication of them would have been the subject-matter of an indictment at law, and that such prosecution ought to have been instituted. Now, it is found here, as a fact, that the work which is the subject-matter of the present proceeding was, to a considerable extent, an obscene publication, and, by reason of the obscene matter in it, calculated to produce a pernicious effect in depraving and debauching the minds of the persons into whose hands it

might come. The magistrates must have been of opinion that the work was indictable, and that the publication of it was a fit and proper subject for indictment. We must take the latter finding of the magistrates to have been adopted by the learned Recorder when he reversed their decision, because it is not upon that ground that he reversed it: he leaves that ground untouched; but he reversed the magistrates' decision upon the ground that, although this work was an obscene publication, and although its tendency upon the public mind was that suggested upon the part of the information, yet that the immediate intention of the appellant was not so to affect the public mind, but to expose the practices and errors of the confessional system in the Roman Catholic Church. Now, we must take it upon the finding of the Recorder that such was the motive of the appellant in distributing this publication—that his intention was honestly and *bonâ fide* to expose the errors and practices of the Roman Catholic Church in the matter of confession; and upon that ground of motive the Recorder thought an indictment could not have been sustained, inasmuch as to the maintenance of the indictment it would have been necessary that the intention should be alleged and proved—viz., that of corrupting the public mind by the obscene matter in question. In that respect I differ from the Recorder. I think that if there be an infraction of the law, the intention to break the law must be inferred, and the criminal character of the publication is not affected or qualified by there being any ulterior object in view (which is the immediate and primary object of the parties) of a different and of an honest character. It is quite clear that the publishing of an obscene book is an offence against the law of the land. It is perfectly true, as has been pointed out by Mr. Kydd, that there are a great many publications of high repute in the literary productions of this country, the tendency of which is immodest, and, if you please, immoral, and, possibly, there might have been subject-matter for indictment in many of the works which have been referred to. But it is not to be said, because there are in many standard and established works objectionable passages, that therefore the law is not as alleged on the part of this prosecution—viz., that obscene works are the subject-matter of indictment, and I think the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds

are open to such immoral influences, and into whose hands a publication of this sort may fall. Now, with regard to this work, it is quite certain that it would suggest to the minds of the young of either sex, or even to persons of advanced years, thoughts of a most impure and libidinous character. The very reason why this work is put forward to expose the practices of the Roman Catholic confessional, is the tendency of questions, involving practices and propensities of a certain description, to do mischief to the minds of those to whom such questions are addressed, by suggesting thoughts and desires which otherwise could not have occurred to their minds. If that be the case as between the priest and the person confessing, it manifestly must equally be so when the whole is put into the shape of a series of paragraphs, one following upon another, each involving some impure practice, some of them of the most filthy and disgusting and unnatural description it is possible to imagine. I take it, therefore, that apart from the ulterior object which the publication of this work had in view, the work itself, in every sense of the term, is an obscene publication, and that, consequently as the law of England does not allow of any obscene publication, such publication is indictable. We have it, therefore, that the publication itself is a breach of the law. But then it is said for the appellant, 'Yes, but his purpose was not to deprave the public mind; his purpose was to expose the errors of the Roman Catholic religion, especially in the matter of the confessional.' Be it so. The question then presents itself in this simple form: May you commit an offence against the law in order that thereby you may effect some ulterior object which you have in view, which may be an honest and even a laudable one? My answer is emphatically, 'No.' The law says you shall not publish an obscene work. An obscene work is here published, and a work the obscenity of which is so clear and decided that it is impossible to suppose that the man who published it must not have known and seen that the effect upon the minds of many of those into whose hands it would come would be of a mischievous and demoralising character. Is he justified in doing that which clearly would be wrong; legally as well as morally, because he thinks that some greater good may be accomplished? In order to prevent the spread and progress of Catholicism in this country, or possibly to extirpate it in another, and to prevent the State from affording any countenance to the

Roman Catholic Church in Ireland, is he justified in doing that which has necessarily the immediate tendency of demoralising the public mind wherever this publication is circulated? It seems to me that to adopt the affirmative of that proposition would be to uphold something which, in my sense of what is right and wrong, would be very reprehensible. It appears to me the only good that is to be accomplished is of the most uncertain character."

Gentlemen, I pause here to say that I most deeply regret that every word which I am now reading, applying to the "Confessional Unmasked," is applicable to this work. I have it on the face of the last edition, which bears on its title-page these words, "This is the one hundredth thousand." The Lord Chief Justice, in his judgment, continues: "This work, I am told, is sold at the corners of streets and in all directions; and, of course, it falls into the hands of persons of all classes, young and old, and the minds of the hitherto pure are exposed to the dangers of contamination and pollution from the impurity it contains. And for what? To prevent them, it is said, from becoming Roman Catholics, when the probability is that nine hundred and ninety-nine out of the thousand into whose hands this work would fall would never be exposed to the chance of being converted to the Roman Catholic religion. It seems to me that the effect of this work is mischievous and against the law, and is not to be justified because the immediate object of the publication is not to deprave the public mind, but it may be to extirpate Roman Catholicism. I think that the old sound and honest maxim, that you shall not do evil that good may come, is applicable in law as well as in morals, and here we have a certain and positive evil produced for the purpose of effecting an uncertain and remote and very doubtful good. I think, therefore, the case for the order is made out, and although I quite concur in thinking that the motive of the parties who published this work, however mistaken, was an honest one, yet I cannot suppose but what they had that intention which constitutes the criminality of the act, at any rate, that they knew perfectly well that this work must have the tendency which, in point of law, makes it an obscene publication, namely, the tendency to corrupt the minds and morals of those into whose hands it might come. The mischief of it, I think, cannot be exaggerated. But it is not upon that I take my stand in the judgment I pronounce. I am of opinion, as the learned

Recorder has found, that this is an obscene publication. I hold that where a man publishes a work manifestly obscene, he must be taken to have had the intention which is implied from that act, and that as soon as you have an illegal act thus established, *quoad* the intention and *quoad* the act, it does not lie in the mouth of the man who does it to say : 'Well, I was breaking the law, but I was breaking it for some wholesome and salutary purpose.' The law does not allow that ; you must abide by the law, and if you would accomplish your object, you must do it in a legal manner or let it alone ; you must not do it in a manner which is illegal. I think, therefore, that the Recorder's judgment must be reversed, and the order must stand."

The LORD CHIEF JUSTICE : In that case it was alleged that the questions put in the "Confessional" were calculated to suggest unchaste and unclean thoughts, and, therefore, it appeared to me, they were calculated to lead to immorality, and that a man could not say, "I published a work of an immoral tendency, but to effect what I thought would be a greater good." We all held that that was no answer.

The SOLICITOR-GENERAL : No doubt, my lord, your lordship will remember that the whole of the questions used in the "Confessional" were published side by side with the strongest protest against such questions being permitted to be put. The mere fact of publishing the work the full Court held to be illegal. The other judges concurred in your lordship's judgment, giving their special reasons.

The LORD CHIEF JUSTICE : I think the questions were pretty nearly the same as those recently referred to in the House of Lords.

Mr. BRADLAUGH : I have no desire to unnecessarily interrupt the learned Solicitor-General ; but I would submit, my lord, that he has no right to present to the jury something which he must not prove until after the verdict, and which does not relate to the matter at issue ; and therefore I think it is hardly fair for him to introduce into his speech, for the purpose of influencing a verdict, the alleged fact he has recently referred to with regard to the publication of the work.

The LORD CHIEF JUSTICE : Perhaps it would be better to confine the case to the issue there is to be tried.

The SOLICITOR-GENERAL : A part of my case is that the publication of this work recently must affect the act of publication, and is important for the jury to know.

Mr. BRADLAUGH : The indictment is for a publication on March 24th and March 29th.

The LORD CHIEF JUSTICE : I decide that point for you, Mr. Bradlaugh.

Mr. BRADLAUGH : Very well ; I thank your lordship.

The SOLICITOR-GENERAL : I must not be taken to consent to its not being important now, and shall have to refer to it again.

Mr. BRADLAUGH : I will take my objection at the proper time.

The SOLICITOR-GENERAL : In questions of this kind it should be borne in mind by the jury, not only the nature of the work published, but the mode of publication, and I cannot do better than to read to you, gentlemen, his lordship's own language in the case I have already referred to—*The Queen v. Hicklin*. His lordship, at page 367 of "*Common Law Reports, Q. B.*," says : "A medical treatise, with illustrations necessary for the information of those for whose education or information the work is intended, may in a certain sense be obscene, and yet not the subject for indictment, but it can never be that these prints may be exposed for any one, boys and girls, to see as they pass. The immorality must depend upon the circumstances of the publication." Therefore, gentlemen, as it appears to me, it is a matter worthy of your consideration, not only the nature of the work itself, but the mode in which it was and is now claimed to be published. It is not whether a work of this kind can be submitted to a college of philosophy, but whether it can be sold at the price of sixpence about the streets of London and elsewhere, and it is with a view to stopping that publication that the law has interfered.

The LORD CHIEF JUSTICE : That is assuming always that it is an obscene work. I did not intend it to apply to a work on a scientific question.

The SOLICITOR-GENERAL : No ; it may be absolutely necessary for the medical profession that plates and works treating on obstetric matters should be published ; but who would say it would be right to publish such things indiscriminately throughout England ? And it is to that question that I venture to think the distinction of my lord seems to point. The morality or immorality in such a case must depend upon the circumstances of the publication. We have here, in the work before us, a chapter on restriction published, not written in any learned language, but in

plain English, in a facile form, and sold in the public streets at sixpence. Of course, as my lord has pointed out, although the question is one of publication, the mode of publication is involved. You must first establish that the work is an obscene work. Now, gentlemen, I do not wish to read you extracts from the work. I would rather refer you to the passages in the copies of the work you have before you, which we, the prosecution, rely upon as being obscene.

The LORD CHIEF JUSTICE: Meaning by obscene, tending to influence the passions, or recommending some course of conduct inconsistent with public morals.

The SOLICITOR-GENERAL: I do not want, gentlemen, to trouble you in going through many passages of this work; but at page 34 you will find a chapter on promoting and checking conception.

Mr. BRADLAUGH: I am not sure, my lord, whether your lordship had a copy of the same edition as that which the Solicitor-General and the jury have; but I will hand your lordship one.

Having handed one to the Lord Chief Justice, the LORD CHIEF JUSTICE said: I found a difference in the paging. This, Mr. Bradlaugh, is the same edition as that which the Solicitor-General is about to refer to?

Mr. BRADLAUGH: Yes, my lord; and the same as the one on which the indictment is founded; there is a little left out of the one which is contained in the other edition.

The LORD CHIEF JUSTICE: And the same as the jury have is this?

Mr. BRADLAUGH: Yes, my lord, and the same as that which is the subject of the indictment. The one your lordship had was the later edition, handed up on the motion for the *certiorari*.

The SOLICITOR-GENERAL: The whole chapter, gentlemen, is, as you will perceive, devoted to the subject of promoting and checking conception, referring, amongst other matters to the use of cayenne; and, gentlemen, I do not desire to read it. I would rather refer you to the chapter, and you will perceive for yourself what it purports to be.

The LORD CHIEF JUSTICE: Are you not going to read it?

Mr. BRADLAUGH: I do not wish to compel the Solicitor-General to read the pamphlet, but I require to know the exact parts relied on to support the indictment. I have applied to the prosecution for a statement of the parts relied

on, and have been refused. I am afraid for our defence I shall have to require the prosecution to read the work to the jury, unless we are allowed to know the exact words relied upon by the learned gentleman.

The LORD CHIEF JUSTICE: Yes, I think that is fair.

The SOLICITOR-GENERAL: I thought it would be unfair to the defendants in one sense to select any part of the book. I presume Mr. Bradlaugh's motion which he was about to make was on the ground that there were no passages mentioned in the indictment, but merely that the work was an obscene book. It seemed to me that it would be unfair to the defendants and to the prosecution to select any one part of the book. I thought we needed only to give the jury that which it seemed to me was the key to the whole publication. If not, the whole book must be read.

The LORD CHIEF JUSTICE: I quite agree; but still I was supposing that if there was anything independent of the whole scope of the work that you could put your finger on and say it tended to obscenity, it is right that the defendants should know it. In one part he discusses the causes of sterility in females, and how it may be cured by means of certain remedies such as he suggests. One, for instance, you say, is by the use of cayenne. That, it may be argued, is medical information; but, on the other hand, it may be said to be an indecent and indictable passage. It is well known that sterility is a source of great discomfort to women who wish to be blessed with children, and any man who can suggest a mode for its removal would be a benefactor to humanity; but, as you say, that may be used as a disguise to instil bad notions into the mind. That is a question for the jury to decide, and for that purpose they must have the subject before them.

The SOLICITOR-GENERAL: I shall have to read the whole of that chapter; but I did not wish to give the jury the pain and trouble to hear it.

The LORD CHIEF JUSTICE: Very well, read it. The book must be read, sooner or later, either by you, Mr. Solicitor, or the officer of the court.

The SOLICITOR-GENERAL: I thought it was unfair to read a part.

Mr. BRADLAUGH: Whatever part of the work the learned Solicitor thinks it his duty to refer to, I have a large number of standard medical works, of the highest character, which I shall have to read extracts from, showing that every line of Knowlton is amply covered by the best authorities. I

mention that, as I should like the Solicitor-General to know how I put it.

The LORD CHIEF JUSTICE : What I shall ask the jury will be very much like this : If they take the statements contained in the work to be a treatise on obstetric medicine, do they consider there is anything in it which the writer was not justified in writing? And, looking to the whole character of the work, do they think it is introduced into the work merely for the purposes of medical knowledge useful for the people to know, or do they think it tends to immoral results? Whether you read it, or whether it is read by the officer of the court, or the defendants, matters little ; the jury must hear it.

Mr. BRADLAUGH : I only want the passages the Solicitor-General relies on precisely stated, so that I may identify the parts I have to answer. I do not want to put the Solicitor-General, or the officer of the court, to the inconvenience of reading it. Nor do I desire thus to waste the time of the court.

The SOLICITOR-GENERAL to the jury : I will point out one of the passages which, I think, evidently not only shows the object of the writer but illustrates the mischief and evil that the work is liable to produce. It is really extremely painful to me, (hesitating) very painful, to have to read this. At page 38 you will find—[Here the Solicitor-General read to the end of the chapter]. Gentlemen, I have read the whole of that, and I assure you that it has been with extreme pain and regret that I have found myself compelled to read it, and if it were possible—I don't know that it is, but if it were—to do what the defendant said in his interlocutory statements, *i. e.*, to produce from any number of medical works observations supporting this book in its entirety, I should submit that a medical work, published as this is, would be properly the subject of an indictment. It must not be assumed that, peradventure, a great number of works having been published that have not been made the subject of indictment, that another should not be proceeded against. No one feels more deeply than I do that these prosecutions are fraught with danger, and that any number of authorities may be brought before you to suggest that these works are not novel. Any authorities of that sort I should recommend you to disregard. You may tell me about American doctors ; but it is not to be permitted that doctors in England shall have a right to circulate such filth, and then be allowed to

substantiate it by instances from other medical works. Many things—medical treatises, recommendations for the use of medicaments, herbs, and so forth—applicable to the ills under which humanity may suffer may, in the study of the physician, be properly considered for the purpose of applying to mankind some kind of remedy for the evils under which they may suffer. But is it to be said that because these things may be discussed and considered in the closet of the physician, that they may be cast broadcast all over the streets? If you accept that, you entirely subvert the principle which is properly deducible, and there is no such thing as indecency and obscenity at all. A man who had the view that the human figure was the most beautiful in the world might claim the right to walk naked through the streets, and might triumphantly say, “I am exhibiting nothing but the natural parts, and it is only a prurient mind that will see anything improper in it.” And you might push it to the extreme of saying that, inasmuch as sexual intercourse is a natural provision, there is nothing improper in publicly performing it.—[We paraphrase the extreme coarseness of the language here used by the learned counsel]. There is no limit to the extent to which a proposition like that may be carried. The question is for the good sense of an English jury, whether what I have read to you—and I don’t wish to read any more—may be properly sold. I rely upon that passage read as indicating what is the nature, the extent, and the scope of that particular passage led up to, as I have told you it is, by a description of the parts engaged. It may be said that parts of this book—the defendant will be entitled to point to them, and I wish to make no concealment of such passages—contain passages in which the general scope and thesis enforced relates to marriage, which is introduced where the connection between the sexes is spoken of. Therefore, you may read it thus: I recommend this not as a mode by which persons who are unmarried may gratify their passions without the consequences which follow from that gratification. You may read it in every line that the defendant recommends and points out this simply as the use that is to be made of the preventive check, assuming that lawful connection between the sexes, and assuming that marriage has sanctified the intercourse of which he is speaking. Gentlemen, the question for you is, whether a book of this sort, published to everybody, would not suggest to the unmarried as well as to the married, and any persons into whose hands

this book might get—the boy of 17 and the girl of the same age—that they might gratify their passions without the mischief and the inconvenience and the destruction of character which would be involved if they gratified them and conception followed. Gentlemen, that is one of the questions which you will have to determine. I venture to submit that the whole scope and tendency of giving such a minute description of all that has relation to the sexual appetite and the apparatus concerned therein—the effect of that is to constitute an obscene book. Gentlemen, there is one passage at the very end of the book, pp. 44 and 45, which I will also read. [The Solicitor-General here read p. 44 and to the end of p. 45.] Now, gentlemen, I pause for one moment upon that. These expressions, which you find all scattered through the book, assuming that they are meant for married persons to put a check upon undue population, I submit to you that is colourable, and that the object of the whole book, the scope of this book, is to permit people, independent of marriage, to gratify their passions, independently of the checks which nature and providence has interposed. I say that the object of this book is to tell everybody how they may do that, and yet have no children, whether they are married or not. Now, I invite your attention to the last passage. You will observe the thesis is the necessity, in point of health and in point of morals and mental tranquillity, for the gratification of this particular passion, and observe—“It is a fact universally admitted, that unmarried females do not enjoy so much good health, and attain to so great an age, as the married.” What is the inference from that? Here are the means by which the unmarried female may gratify her passions. The truth is, those who publish this book must have known perfectly well that an unlimited publication of this sort, put into the hands of everybody, whatever their age, whatever their condition in life, whatever their modes of life, whatever their means, put into the hands of any person who may think proper to pay sixpence for it—the thesis is this: if you do not desire to have children, and wish to gratify your sensual passions, and not undergo the responsibility of marriage; if you are desirous of doing that, I show you by a philosophical treatise, forsooth, how you may effect that object satisfactorily and safely, after a long experience, collected from a great number of scientific persons; the expedient I recommend has never been known to fail. And, therefore, this is to be put into the hands of every

one, and it is sought to be justified upon the ground that it is only a recommendation to married people, who under the cares of their married life are unable to bear the burden of too many children. I should be prepared to argue before you that if confined to that object alone it would be most mischievous. The Christian religion is happily still a part of the law of this country, and if it were confined simply to that recommendation, I certainly should have a great deal to say to you, and would point out that that is immoral in the higher sense to which my lord at the commencement of the case referred. I feel it would be inappropriate to enter upon a discussion of this character, because it would appear to concede that this book is only intended for circulation among persons so situated. I deny this, and I deny that it is the purport and intention of this book. This book is sold for sixpence, and at such a price as that it will induce a circulation, which you may well conjecture, and it may be induced amongst an enormous population, there will be so many sold to boys and girls and persons who may obtain it with perfect facility in the streets; I decline to argue the question, and it would be most inappropriate and inadequate to discuss the book as if it were a document handed to a young couple who are anxious to avoid the evil and misery, which, as the writer states, a large family produces. That is not the ground on which I should discuss it. I submit to you, that from what I have read, it is an obscene book. The mode of publication is such as does not justify the book, and it is calculated to deprave and destroy the minds of those young persons especially into whose hands it may come, and therefore, it is properly the subject of an indictment. Don't talk to me about doctors! I care not if every physician in England had written a book of this character—although God forbid that I should suggest any physician could do so!—if you collect into this book all that may be found relating to one subject-matter scattered in various books, it is a totally different thing. Apart from such a question altogether, if you were to prove to me that any physician in England had published a book like this, I submit that there can be no justification for that book to be quoted, which is calculated to deprave the minds of those into whose hands it may fall. I therefore ask your judgment that this book is an obscene publication.

WILLIAM SIMONDS, detective officer, City of London police, examined by Mr. Douglas Straight:

Did you, on the 24th of March, go to 28, Stonecutter Street?—Yes, I did.

Is that the Freethought Publishing Office?—Yes, sir.

Did you go into the shop?—I did.

Whom did you see there?—I saw Mr. Bradlaugh and Mrs. Besant.

What did you say?—I asked for a copy of the “Fruits of Philosophy.”

By the LORD CHIEF JUSTICE : Whom did you see ?

Mr. STRAIGHT : He says he saw the two defendants. You purchased a copy ?

WITNESS : Yes, I bought a copy of the “Fruits of Philosophy.”

To whom did you address yourself?—To Mrs. Besant.

What took place?—She supplied me with a copy, for which I paid sixpence. I gave her a shilling, and she gave me sixpence change.

Did the defendant Mr. Bradlaugh hear what you said?—He was close beside, and could hear what was said.

Did you go again on the 29th of March?—Yes.

Did you purchase another copy on that occasion ?

By Mr. BRADLAUGH : One moment, pray. Were either of the defendants there then?—No, they were not.

Neither of them were there. Who served you?—A young man in the shop.

By Mrs. BESANT : How long have you been in the detective force?—About 13 years a detective.

What wages do you get?—Thirty-one shillings and sixpence.

Has it been raised at all?—Yes ; I get an extra portion for my clothes.

You did not get so much at the beginning?—No ; about 28s. or 29s.

By Mr. BRADLAUGH : Have you the documents you produced before the magistrate?—I have, sir.

Will you just let me look at them?—I will, sir.

The documents were produced, and proved to be memoranda from Mr. Bradlaugh and Mrs. Besant to Detective-Sergeant Green, of the City Police, and to Mr. Martin, the Chief Clerk of the Guildhall Justice-room, intimating that Mr. Bradlaugh and Mrs. Besant would attend to personally dispose of the first hundred copies of the Knowlton pamphlet.

Mr. BRADLAUGH : Have you received a letter from me

since the commencement of this prosecution?—Yes, about three weeks ago.

Have you got it?—No, sir.

Mr. BRADLAUGH (to City Solicitor) : Do you produce this letter. I gave you notice to produce it.

WITNESS : All the letters I received I handed over to the City Solicitor.

Mr. BRADLAUGH : It is simply a letter asking him if he is the prosecutor. I ask did you give an answer to that question? Did you reply whether or not you were the prosecutor? Did you say yes or no?

WITNESS : No, I did not.

EDWIN WILLIAMS, constable of the City Police, called.

Mr. MEAD : On the 24th of March did you go to Stonecutter Street?

WITNESS : Yes, sir.

Whom did you see?—I saw Mrs. Besant and Mr. Bradlaugh. I asked Mrs. Besant to give me the book called the "Fruits of Philosophy."

Did she give you the book?—She gave me the book, and I paid sixpence for it.

Did the other defendant hear what was said?—Yes; he was standing close by, sir.

That is the only time, I think, you went?—That was the only time.

Have you the book?—Yes.

Hand it in, please.

(Book handed in.)

No questions were put to this witness by either Mr. Bradlaugh or Mrs. Besant.

Detective Sergeant ROBERT OUTRAM, City of London Police, called.

Mr. MEAD : On April 5th, did you obtain a warrant at the Guildhall Justice-room?—No; I received the warrant at the head office.

Did you go with the warrant to 28, Stonecutter Street?—I did.

With the two last witnesses?—Yes.

Did you see the two defendants?—I did.

Did you search the premises?—When I saw them I told them I was a detective-sergeant, and that I held a warrant——

Mr. BRADLAUGH : Don't tell us anything about the warrant if you have not got it here.

THE LORD CHIEF JUSTICE: When you said warrant, you must have described it in some way.—I said I had a warrant for their arrest, also a search warrant. I read the warrant to Mr. Bradlaugh and Mrs. Besant, and I also searched the premises.

Did you find any books?—I did not.

LORD CHIEF JUSTICE: You did not find any books there?—No, my lord.

MR. MEAD: Did the defendant say anything?—When I read the warrant to him he said there was not a book on the premises which would come under the warrant.

MR. BRADLAUGH made that reply. What else did he say?—He said he had a few copies, which they would require for the defence.

THE LORD CHIEF JUSTICE: Require for what?

SERGEANT OUTRAM: For their defence, my lord.

You then took both defendants into custody?—Yes. I afterwards took them to Bridewell police-station.

SOLICITOR-GENERAL: Now, my lord, I propose to prove what I referred to in opening, what the publication is since, and the extent of the publication.

LORD CHIEF JUSTICE: That the defendants have published you have proved.

SOLICITOR-GENERAL: This book bearing their imprint must surely make them publishers of other copies.

LORD CHIEF JUSTICE: Somebody else may have bought up all the other copies; if you can show that the sale took place in their premises—but you don't say so.

MR. BRADLAUGH: I should submit that even this would be no evidence on an indictment charging us with specific sales on the 24th and 29th.

THE LORD CHIEF JUSTICE (to Solicitor-General): I don't see what you want. You have proved the sale of two copies of this work by the defendants jointly. The only question for the jury is, what is the object or effect of the work. If the defendants should be convicted, you can produce the other evidence hereafter, by way of aggravation, that many other copies have been sold by the defendants. One sale is enough, and you have proved it.

THE SOLICITOR-GENERAL: It strikes me as important that it was being published everywhere.

THE LORD CHIEF JUSTICE: Does not the preface show that it was intended for general circulation?

THE SOLICITOR-GENERAL : Simonds, I believe, has not identified the copy in court.

Simonds recalled.

THE SOLICITOR-GENERAL to Witness : Just look at the copy attached to the deposition ; is that the copy you purchased on the 24th ?

WITNESS : It is the copy purchased on the 29th.

THE SOLICITOR-GENERAL : Then you have a copy purchased on the 24th ; you should have handed both in. (To the Lord Chief Justice.) That is my case, my lord, but after what your lordship has said it would be right to call attention to certain passages in the book, and to ask the officer of the Court to read them.

MR. BRADLAUGH : To save both the officer's time, and that of everyone else, it will be sufficient if the passages are pointed out distinctly with the page, and identified as beginning with such a word and ending with such a word ; we do not wish to put the officer of the court to the necessity of reading them ; it will only be uselessly taking up time. I will only ask the learned counsel to be particular in the references he gives.

THE SOLICITOR-GENERAL : I should like the jury, if your lordship will be good enough, to look at page 8 (in any instance down to the end of the chapter), then page 11.

MR. BRADLAUGH : But where do you finish ?

THE SOLICITOR-GENERAL : At the end of the chapter.

MR. BRADLAUGH : That will be page 9.

THE LORD CHIEF JUSTICE : Then page 11 ?

THE SOLICITOR-GENERAL : What I said was page 8 to the end of the chapter. Then page 11 from "fully to effect," pages, 12, 13, 14, 15, 16, 17 and 18.

THE LORD CHIEF JUSTICE : The whole portion of the description ?

MR. BRADLAUGH : Then where will that end ?

THE SOLICITOR-GENERAL : "Induced by too frequent and promiscuous intercourse."

THE LORD CHIEF JUSTICE : All the way through to page 18 ?

THE SOLICITOR-GENERAL : Yes. Then page 27 "considering it important to do away with," down to the end of the chapter, page 33.

MR. BRADLAUGH : The whole of the intervening pages ?

THE SOLICITOR-GENERAL : Yes. I do not think I can draw any distinction in chapter 3, on checking conception.

MR. BRADLAUGH : The whole of chapter 3 ?

The SOLICITOR-GENERAL: Then page 44, beginning "every young married woman," down to the end of the chapter. That is my case, my lord.

Mr. BRADLAUGH: I will just call over the pages to see if we have got them rightly.

The LORD CHIEF JUSTICE: I think you may assume that the learned Solicitor-General objects to the whole book from beginning to end.

Mr. BRADLAUGH: Very well, my lord, then we must defend the whole. If your lordship will allow it, I have arranged, for our mutual convenience, that Mrs. Besant should make her defence first. I do not know whether your lordship would adjourn now (12.30), before the case for the defence is commenced; it will be utterly impossible for Mrs. Besant to conclude before the adjournment for luncheon.

The LORD CHIEF JUSTICE: We have an hour yet.

Mr. BRADLAUGH: I only suggested it for the convenience of the Court.

Mrs. BESANT: My lord, and gentlemen of the jury—It will not seem strange to any of you if, in defending myself here to-day, I find myself slightly over-weighted by the amount of legal ability which the prosecution has thought it well to bring against me. I know that names such as those who stand as advocates against me must carry—and must rightly carry—a certain amount of weight with those to whom I have to appeal. When you find the learned Solicitor-General engaged in the case, and when his great legal knowledge is not enough to conduct it without the assistance of two other counsel learned in the law, you must come to the conclusion that you have two great criminals before you, because, if it were not so, the prosecution would not go into the very large expense entailed in this case. I might feel less hopeful of success did I pretend to rival the learned Solicitor-General in legal knowledge, in force of tongue, or in skill of dialectic. But, gentlemen, I do not rely on these: I rely on a far mightier power; I trust to the goodness of my cause, and I am sure that, when you have heard the evidence which I shall lay before you, you will feel that to give a verdict of "guilty" would be to give a verdict against the weight of the evidence, and would have a most unfortunate effect upon the public outside. But, gentlemen, I do not mean that I have had the impertinence

to come before you without a careful and thorough consideration of the case which I submit. I have spent the few weeks I have had between my arrest and the present time in studying the case I have to set before you. I have done my best during these few weeks which have intervened to make myself acquainted with those trials of the past which bear upon this subject, and those state trials from which I could gather some ideas by which I might move you, or some words which I could use when appealing to you. It is not as defendant that I plead to you to-day—not simply as defending myself do I stand here—but I speak as counsel for hundreds of the poor, and it is they for whom I defend this case. My clients are scattered up and down through the length and breadth of the land; I find them amongst the poor, amongst whom I have been so much; I find my clients amongst the fathers, whose wage ever reducing, and prices ever rising; I find my clients amongst the mothers worn out with over-frequent child-bearing, and with two or three little ones around too young to guard themselves, while they have no time to guard them. It is enough for a woman at home to have the care, the clothing, the training of a large family of young children to look to; but it is a harder task when oftentimes the mother, who should be at home with her little ones, has to go out and work in the fields for wage to feed them when her presence is needed in the house. I find my clients among the little children. Gentlemen, do you know the fate of so many of these children?—the little ones half starved because there is food enough for two but not enough for twelve; half clothed because the mother, no matter what her skill and care, cannot clothe them with the money brought home by the breadwinner of the family; brought up in ignorance, and ignorance means pauperism and crime—gentlemen, your happier circumstances have raised you above this suffering, but on you also this question presses; for these over large families mean also increased poor-rates, which are growing heavier year by year. These poor are my clients, and if I weary you by length of speech, as I fear I may, I do so because I must think of them more even than I think of your time or trouble. You must remember that those for whom I speak are watching throughout England, Scotland, and Ireland, for the verdict you will give. Do you wonder I call them my clients, these poor for whom I plead? they cannot bring the fee of gold such as is received by the

learned gentlemen who are briefed against me here; but they bring what is better than gold—they send up a few pence week by week out of their scanty wage for as long as the trial lasts; they send up kindly thoughts and words of cheer and of encouragement; mothers who beg me to persist in the course on which I have entered—and at any hazard to myself, at any cost and any risk—they plead to me to save their daughters from the misery they have themselves passed through during the course of their married lives. Gentlemen, I may perhaps say one word for myself before I go right into my case. The learned Solicitor-General has had the kindness to say that he does not impute bad intent to us in publishing this work. What bad intent could there be? I had nothing to gain in publishing this work—I had much to lose. It is no light thing for a woman, whose ambition is bound up in the name which she hopes to make, to have the imputation thrown upon her of publishing indecent books and of disseminating obscenity amongst the young. I risk my name, I risk my liberty; and it is not without deep and earnest thought that I have entered into this struggle. And when I shall lay before you the indictment against me, I must ask you if you will be able to bring in a verdict of guilty on an indictment such as this. The cases of myself and my co-defendant are practically the same; and while we do sever in our defence, and each conduct our own, we have thought it wise that we shall not severally go over the whole of the case. I have thought that I shall best consult the convenience of the Court by leaving the purely physiological details to be dealt with by my co-defendant. Although I do not pretend to the extreme delicacy displayed by the learned Solicitor-General; while I should hardly have imagined it possible that a counsel who has had such wide and large experience in criminal cases should have hesitated to read extracts which deal with facts perfectly well known to any doctor; at the same time, I think it will be more fitting, more in good taste, more agreeable to the Court, if I leave these purely physiological details to my co-defendant. I do this, not as admitting that these details are obscene or indecent in any respect, but simply because I think that such a course will be pleasanter to all concerned. I propose to deal chiefly with the other parts of the pamphlet. The questions are: What is this pamphlet? What is it intended to do? What purpose is there in the circulation of it?

One or two physiological questions I shall touch upon and deal with generally, because I feel myself compelled to do so in the interest of my clients, in the interest of the poor woman who has only 6d. to spare, and should be allowed to purchase with that 6d. the knowledge which richer women can obtain for 2s. 6d., 5s., or 6s., at any of the railway bookstalls of Messrs. Smith and Sons. The learned Solicitor-General spoke most disdainfully of a book that should be sold for 6d.; but when people have to live on 13s. a week, 6d. is quite as much as they can afford to pay for a book containing useful and necessary sanitary information. Gentlemen, I do not think there is anything to fear in this presence, from statements outside, calculated to arouse prejudice against us. I do not think I need do more than refer to prejudice which has been sought to be aroused against us by certain newspapers—one in particular, which I will not here mention, whose editor, when attacked, has a habit of hiding himself behind an infant. That paper charged me with child murder, and referred to me as an advocate of promiscuous intercourse. Gentlemen, if some word as to promiscuous intercourse had not fallen from the lips of the learned Solicitor-General, I should have thought that such a charge was too foul and too baseless to have been founded on a pamphlet such as this. You will have seen some of these papers, but I am sure that you have left them outside the Court, and that you will not allow them to influence your verdict here, and that any word which may have fallen in another case will not be allowed by you to prejudice this. One great fault charged against us, though shut out by the ruling of the learned judge, is, that books which are not ours, and do not emanate from us, are sold by men who get drunk, and swear in the public streets. I am not here to defend these hawkers. I can only say that that to which objection has been made is the fault of the Solicitor-General himself, or of the prosecution which he represents. This pamphlet had a small sale for years back of about 700 copies annually, and for the number that have been sold since our arrest, you must blame the prosecution, and not me. It is the prosecution which has given the importance to this book. If we had wanted to do so we could have hired men to sell the work at the street corners, but we did not care to have our book in the hands of men bearing the—not good—character of too many of this class of persons. We sent these men away from

the shop when they came to buy, and we absolutely refused to supply them, and we have done nothing to spread the sale of this pamphlet, as we have done with our other publications. We have not even advertised it in our own paper, except once, and then only because we wanted to make it known that we were going to sell it for the first time at our office. Spurious copies were printed and sold at the street corners, because it was difficult to get the real pamphlet, and the whole annoyance is due to the action of the prosecution; they have given a purely factitious importance to an old and almost forgotten pamphlet which had been supplanted by more modern treatises; and the more they prosecute the more they will cause this annoyance to continue, because these men sell whatever they can get a high price for, and people buy it now simply because it is prosecuted. I come now, gentlemen, to the question of the indictment; I do not know if it has been laid before you or no. This indictment charges Charles Bradlaugh and Annie Besant that "unlawfully and wickedly devising and contriving and intending, as much as in them lay, to vitiate and corrupt the morals as well of youth as of divers other liege subjects of our said lady the Queen, and to incite and encourage the said liege subjects to indecent, obscene, unnatural, and immoral practices, and bring them to a state of wickedness, lewdness, and debauchery," they did publish a certain book, which it then goes on to describe in words which I will not read because of their extreme and unnecessary coarseness. Gentlemen, I think I may fairly lay some complaint before you against the language of this indictment. I may be told that it is pleaders' language, and I have, fortunately, not very much knowledge of pleaders' language, but I must really put it to you that the learned Solicitor-General does not accuse me of what is charged against me in this indictment. If he wants to accuse me, as he has done, of publishing a bad book with a good intent, he ought to amend the indictment, which has been so clumsily drawn up. If you refer to Archbold, you will see that the ordinary indictment for selling an obscene book is very different to that to which I am called upon to plead to-day. You are told in this indictment that we intend, and devise, and contrive to corrupt the morals of youth as much as in us lies, and it then goes on to give the very coarsest possible description of the book. It seems to me as if the learned counsel who drew this up

had gone through every indictment he could find, and had picked out every unpleasant adjective which could prejudice us with those to whom we have to plead, and had thrown them together into this. The learned Solicitor-General says it was too much trouble to put the whole of the book into the indictment ; but I say that unless every page of the pamphlet is indecent, you cannot convict us on this indictment. We have then to deal with a prosecution which endeavours to do too much, and which is likely, therefore, to do nothing. But, gentlemen, the malice of the prosecution has overreached itself. Since no distinction is drawn between one part of the book and the other, you must find that the whole of it is obscene before you convict me. You must take the whole book. You have heard the preface read—and I was very glad that the learned Solicitor-General did so read it—are you prepared to say that the preface is an obscene, immodest, and disgusting production? Unless you include the preface in your verdict, you must acquit the book in your verdict. The very way the indictment has been framed makes it fatal to the prosecution. But you have got more to do than to find the whole of the book obscene. You have got to find that our object in publishing it was to vitiate and corrupt the morals of youth as of divers others, and unless you believe that to have been our object, no verdict can be given against us on this indictment. I am perfectly aware that you must allow the intention to exist if you can prove that the work is thoroughly obscene ; but then you must get at the intent. Take the case of two men, one of whom has a pistol, and the second man, who has not a pistol, is found shot. It does not follow that the second man, even if found with the pistol in his hand, has been guilty of murder. If that man were set before you on the charge of murder, you would find out what the intent was which might have governed his actions. You would ask if there had been malice between them, or quarrels between them, in the time that had gone. You would ask what intention perhaps was in the mind of the man who shot, before you would bring him in guilty of the murder of his fellow man. I put it to you that much more, in dealing with a medical book, you must show the intent to be malicious, before you can, by any possibility, bring in a verdict of guilty against me here. The Solicitor-General says the intent is good. If that be so, the duty of the Solicitor-General is to get up and

say that he drops the charge against us, for as the indictment falls through by his own admission, he has no right to keep you here wasting your time on an indictment which he himself confesses is bad. But, then, he puts it, that the intent does not matter. I say, gentlemen, that the intent is the vital part of the charge. The intent of the book is what you really will have to judge. The learned Solicitor-General put that strongly when he said there was a colourable pretence of philosophy, a colourable use of the word marriage, when really what was intended was not to give philosophy, but gratification of passion—not to teach married people how to restrain their families, but to teach the unmarried how wrongly to gratify their passions. How utterly untrue that is I shall show you as I go on through the pages of this book. The intent in a medical book must be taken to be the very essence of the character of the book. If Sir James Paget wrote a book simply on the diseases of the generative organs, no kind of description of those organs could make the book obscene, because Sir James Paget would write the book not with the intention of corrupting the mind, but with the intention of curing the diseases with which he dealt. In every book that contains physiological details, the intent, therefore, is the very essence of the charge. The intent makes the difference between decency and indecency. A medical book which describes these organs with the intent of a useful purpose is a proper book, and a book that may rightly be published. A medical book that makes such description with the intent to arouse passions is a bad book, and against such an indictment would fairly lie. I am not talking now whether or not it would be wise to prosecute a book of that kind, because I hold that such a prosecution really spreads the book more widely than otherwise it would be; but I must acknowledge that every medical book may be read for a bad purpose by an impure mind. There is no question that with great medical men (although the learned Solicitor-General says he does not care about medical men, and that we are not to talk to him about medical men, or to tell him what they have written)—I must submit to you that it is not wise, that it is not moral (for I hold morality to be that which makes individuals and societies happier and better than they were before, and wiser than they were before)—it does not conduce to morality to say that these men shall not spread knowledge, because that knowledge may be made

impure by the impure minds that read it. Every book, however good the book may be—any of your old classics, any of your standard English works, may be read for the vilest purposes, if the impure mind is to be permitted to characterise them and put upon them the shame that only comes from its own obscene impurity. Then I will put it to you, and I will venture here, instead of using my own words, to plead in the words of one of our mightiest advocates—that Erskine, whose name is known as one of our mightiest pleaders wherever the English language has made its way. The case is that of *The King v. J. Lambert, J. Perry, and J. Grey*, for a seditious libel, in “*Howell’s State Trials*,” 22nd vol. Erskine says:—“When a man accused of libel is brought before a jury, they are to consider only the mind and intention with which the matter was written; and, accordingly as they shall find that, they are to form their decision of guilt or innocence.” Gentlemen, that is the contention I am raising to you—that you are to think of our minds and intents in publishing this book; and I take publishing to be the same as writing a book; and according to that you are to find us guilty or innocent. Mr. Erskine goes on:—“The jury are to dismiss from their minds every other consideration, and allow themselves to be biassed by no motive of party or of political convenience. There is this essential difference between criminal and civil cases: in criminal cases, the jury have the subject entirely in their own hands; they are to form their judgment upon the whole of it; not only upon the act alleged to be criminal but the motive by which it was influenced, the intention with which it was committed, and, according to their natural sense of the transaction, they ought to find a man innocent or guilty: and their verdict is conclusive. Not so in civil cases. In these the jury are bound to abide in their decision by the law as explained by the judge; they are not at liberty to follow their own opinions. For instance, if I am deprived of any part of my property, the loss of my property lays a foundation for an action, and the fact being found, the jury are bound to find a verdict against the person who has occasioned my loss, whatever might be his intentions. Here the judge pronounces the law, the jury only find the fact. The law and the fact are as distinct and separate as light from darkness, nor can any verdict of a jury pass for a farthing in opposition to the law as laid down by the judge, since the courts have a

power to set such a verdict aside. But in criminal cases the very reverse has been immemorially established—the law and the fact have been inseparably joined; the intention of the party accused is the very gist of the case. We are criminal only in the eyes of God and man as far as the mind and intention in committing any act has departed from the great principles of rectitude by which we are bound as moral agents, and by the indispensable duties of civil society. It is not the act itself, but the motive from which it proceeds that constitutes guilt.” I ask you to bear that passage in mind, from one of the highest authorities in a court like this. When you are considering your verdict after the defence is made, Erskine reminds you: “You are solemnly set in judgment on the hearts of the defendants in the publication of this paper. You are to search for their intention by every means which can suggest itself to you. You are bound to believe in your consciences that they are guilty of malicious and wicked designs before you can pronounce the verdict of guilty. It is not because one of them published the paper, or because others are the proprietors of it, but because they were or were not actuated by an evil mind, and had seditious intentions, that you must find them guilty or not guilty.” And Erskine states, gentlemen, that that was the law as laid down by the celebrated Hale; and I am sure, in putting it to you so, you will see the authority with which I am dealing here. He points out in another place that this had been contested in earlier days, but in his own time it was made law; and then, in dealing with this very case, where a book was held to be libel against the king, but where, because the intent of the publisher was good, no sentence was ever passed upon him, and the jury refused to find him guilty of a publication with malicious intent, as charged in the indictment; in dealing with that Erskine says: “If you give the defendants the credit of honest feelings and upright intentions, on my part any farther defence is unnecessary; we are already in possession of your verdict; you have already pronounced them not guilty; for you will not condemn the conduct when you have acquitted the heart.” That, gentlemen, is Erskine’s speech in pleading to the jury, and I will ask you to remember that if you bring me in guilty on this indictment you will have done it only because you believe my intent to have been bad, believe my desire

is to corrupt and deprave the young ; and unless you find that, you are bound in justice, you are bound to give me a verdict of Not Guilty. Then the learned Solicitor-General turns to the case of the *Queen v. Hicklin*, and points out that the good intent of the publisher cannot be held to protect the work. But we find there that the work was an utterly obscene work, and in that part which the learned Solicitor-General read (and I was glad to hear him read it, because Lord Chief Justice Cockburn at that time made practically the very contention which I shall plead to you to-day) it was put that if the book was utterly obscene no amount of good intention could justify the publication of obscene matter. That book was to show that the questions asked in the confessional were depraving to the mind, and would vitiate the morals of youth. The whole of the object of the book, and the publication of the book, would fall to the ground unless the matter contained in the book was obscene. The very contention of the publisher was that the contents depraved and demoralised. Well, if they depraved and demoralised in the confessional box, they would do so still more when printed and circulated to the public in a book. The contention of the publisher destroyed his own case. Gentlemen, unless the book contained obscene matter there was no reason for the publication of the book for which he was put on his trial. This case of the *Queen v. Hicklin* does not in any fashion touch the case on which you are called to pass your judgment. I know the learned Solicitor-General says that some of the worst quotations in the book were veiled in learned language, and that side by side with them were placed some of the very strongest observations against their character. These observations condemned the book which the publisher had issued, for if he thought the questions in the confessional depraved and demoralised, he must have known that they would be likely to do the same thing with whoever should read them. But you don't pretend to say that physiology is in itself indecent, and you will find Lord Mansfield saying in the case of the *King v. Woodfall* : "Where an act is in itself indifferent, if done with a particular intent it becomes criminal ; then the intent must be proved and found. But where the act is in itself unlawful (as in this case), the proof of justification or excuse lies on the defendant, and in failure thereof the law implies a criminal intent." You cannot pretend that physiology is in itself an indecent thing ; you cannot say that medical studies

are in themselves indecent. All you can say is that physiology may be used for an indecent purpose and may be made the cover of indecent suggestions. We come, then, to the very case Lord Mansfield puts where the act is in itself indifferent and only becomes criminal when the intent is a criminal intent. The intent in the case of the *Queen v. Hicklin* was to break the law, and the Lord Chief Justice laid down that where a man publishes a work manifestly obscene he has no right to say that he breaks the law with a good intent. Gentlemen, I admit that to the very fullest extent. I admit that there is no justification in law for publishing an obscene book. I admit that if this book is obscene no amount of good and pure intentions on my part can possibly purge it from its obscenity. I bow thoroughly here to the judgment laid down by the Lord Chief Justice in this case. But I contend that this book is not an obscene book, and that therefore the case of the *Queen v. Hicklin* has no authority here. I will pass, then, to the matter of the book. I say that the matter is not obscene; that our intent in publishing the matter was good; that the knowledge conveyed in the book is useful and necessary, and that, because it is useful and necessary that knowledge ought to be within the reach of all. Unless you disbelieve, gentlemen, the whole of what I am going to say to you—unless you believe not only that the book is obscene—and if you do that you will be branding with the stigma of obscenity every great surgeon and medical man of eminence that has made our English name known throughout the world for our books; and I acknowledge that I reverence the medical profession for the work they do, and I trust you will not be a party to branding as obscene those men into whose hands at the most critical moment you place the health of your wives, your daughters, and your sisters!—a verdict of guilty, or not guilty, does not depend upon whether you approve of that book or not. It does not depend on whether you may think that there are passages in it which had better not have been there. It does not depend on that; nor is it enough you might have thought some of the language coarse, although the Solicitor-General has kindly stated that the language is free from any taint of vulgarity. You must take one part with the other. Turning to the case of the *King against Daniel I. Eaton* for publishing a libel, you find this plainly put by the Judge himself, the Recorder who summed up the evidence, which I hold to be analogous to the case

before you : " If the book was published as the work of a philosopher, for the benefit of mankind, then this man will not have to answer for the publication. If published with a malicious view, then he will have to answer for it, if you are convinced of the fact of publication."

The LORD CHIEF JUSTICE : What was the nature of the publication ?

Mrs. BESANT : There, again, it was a case of a blasphemous libel, one of the many cases brought up at that time.

Mr. BRADLAUGH : It was for publishing one of Paine's works.

Mrs. BESANT : We find here, in this same case, that it was put that you must give a verdict upon the whole matter put in issue before you, that you must affirm every allegation in the indictment to be true ; that if you disbelieve and negative any one allegation, you are bound to find the defendants not guilty. Gentlemen, I will ask you to remember that, when you go away to consider your verdict ; I will ask you to take a copy of the indictment with you and read it through, and say solemnly whether, on your oath, you can find every count in that indictment has really justified you in a verdict against us ; and if I press this specially upon you, gentlemen, it is because I feel that in this matter I have so much to lose if your verdict should go against me, and I will ask you, therefore, if at any time during the trial (which may, in some parts, perchance, become wearisome to you), if, at any moment, you think you are kept here to your own annoyance and inconvenience, I ask you to put that momentary annoyance of, at the utmost, but a few days' detention in a crowded court, against the penalty which lies on me, unless I can succeed in obtaining a verdict of not guilty — a penalty which does not mean confinement for a few days, or for any length of time which the judge can sentence, but which means, practically, almost the extinction of my future life until I can wipe off the stain which your verdict, if guilty, will put upon me. Do not mistake me by thinking that I should think myself guilty ; I should not do so. I have done this thing with full thought and with full knowledge of the responsibility I incurred. Knowing it all, I should proceed to do it again, with the experience I have had since my arrest. I should bring in myself not guilty, whatever your verdict might be at the end of the trial. Now, alleging our intent to be good (and I

hold myself and Dr. Knowlton to be identical in the matter, for the words in the preface, where we said we did not agree in everything, were not intended in any fashion to avoid the responsibility of the publication of every word in the pamphlet), I acknowledge the responsibility to the very fullest extent—I stand responsible for every word from beginning to end. I challenge, practically, your verdict by the course I have taken, and, therefore, I am willing to take the responsibility of every syllable in the pamphlet. Let me, for a moment, deal with the word obscene, for on your consideration of that word will practically come your verdict in this matter. I contend that the book is not an obscene book, and you get the difficulty here that you have no statutory definition of the word obscene. You have not only no statutory definition of the word, but you have not even any unchallenged authoritative judgment on the matter, for I shall show you presently, dealing with the Lord Chief Justice's remarks, that the circumstances of that case unfortunately prevented him from giving a carefully defined meaning of the word, simply because the matter was admittedly obscene on every hand. In almost all other offences, you know with what offences you are dealing. Take murder. Murder is carefully defined in books of law. Take manslaughter: that is also carefully defined, and if you are in any doubt, you have only got to turn to the accepted legal authority and then judge whether the prisoner has committed a certain act or not; you are able to say whether he has committed a murder, or whether he has only committed what is called manslaughter. But you have no such thing to help you when you are dealing with the offence of an obscene libel. So far as I can find, I have not been able to discover a single case where a book, incriminated as this one has been, has been defended on the ground that the book was not an obscene book. Palliations have been brought in, excuses have been made, circumstances that made it justifiable have been caused to be pleaded, but I cannot find one case through the whole English law where the publisher accused of publishing an obscene book has stood up and said that the book did not contain bad matter, and has stood by it. That makes it very difficult for a jury to decide whether a book comes within the scope of the law. One might almost put it to you—though I do not intend to base my case on that ground—that no book ought to be considered as obscene which does not incite to the commission of those acts which are defined by the law to be

obscene, because, when you come to obscene acts, you find these acts laid down and specialised in the law books, and an obscene book may be fairly taken to be a work which incites to the commission of those obscene practices which are indictable under the common law as misdemeanours. For the purposes of this trial, I take a narrower definition than this. I put it to you that an obscene book is a book "written for the single purpose of corrupting the morals of youth, and of a nature calculated to shock the feelings of decency in any well-regulated mind." That is the definition on which I stand for my trial, and that definition is at least worthy of some reverence in this court when I tell you it comes from Lord Campbell, a man who was in the very highest position in our land, and who brought in the very act under which the seizure-warrant was issued which was brought to search at Stonecutter Street. I am quoting from Hansard, vol. 146, No. 2, page 329. It is a definition, gentlemen, which I put before you as the true definition of the word "obscene." And I am the more glad to do that because it thoroughly coincides with the words of the learned judge in the case of the Queen *v.* Hicklin, which was put before you. You will find him saying that "I think the test of obscenity is this: where the tendency of the matter charged with obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands publications of this sort may fall." That is what my Lord Chief Justice Cockburn laid down as the law; and, as I pointed out to you, it was, perhaps, unfortunate that the circumstances of the case did not enable his lordship to give us a thoroughly careful definition, which would have been so invaluable to us for our guidance on the trial of to-day. But on that trial there was no question raised as to whether the matter published was obscene or not, for on all hands it was admitted that the subject-matter was obscene; and where it was taken that the work was an obscene publication, the learned judge would have been going out of his way if he had carefully laid down a strait definition in what obscenity consisted. I will put it to you that obviously the Lord Chief Justice meant the same as Lord Campbell meant, and that the single word "well-regulated" should be inserted. The opinion of the two learned judges thoroughly coincided on that matter—a vital point; and that "well-regulated" is implied in the case of the Queen *v.* Hicklin. I cannot put it to you too strongly that it must

be a well-regulated mind which has to be dealt with in a question of this kind. Should you say that the book is to be adjudged obscene because some utterly ill-regulated mind found something which raised wrong passions or impure desires? You must take the normal mind—the normally-regulated mind—and think of the influence the book would have upon that, for to the impure mind the purest book will have a bad effect, because you get the reflection of the mind in the book. In dealing with the word obscene on any wider definition you will find yourself making a law which will have the most unfortunate effect in the time to come. In this very case you find a debate in the House of Lords, and of course I am not going to put this in evidence here, but simply as showing you the difficulties into which you will plunge the law if you take a wider definition than that of Lord Campbell. You find Lord Lyndhurst putting the objection that might easily arise. He objected to Lord Campbell because he said, “what is the interpretation which will be put on the word obscene?” “I can easily conceive (he says) that two men will give an entirely different conception as to the meaning of the word,” and then you find him drawing a picture of a detective officer going into a print-seller’s or a bookseller’s, under the new act, and asking for photographs of all the most celebrated pictures, by the greatest masters, going with these photographs to the police magistrate, and not saying what the picture was intended to represent, and then getting a warrant from the magistrate to destroy all the works, which might include some of the greatest productions of art. The difficulty is, that if you are to allow the word obscene to be stretched into meaning anything which is coarse, which deals with the human figure, you must make a clean sweep of your literature and your art right through. I don’t mean to say that because there is not another book before you, you should acquit the book which is before you; but I ask you where you will land yourself if by a verdict of guilty you are going to include books under Lord Campbell’s Act, which were never intended to be included in it when the act was drawn? Nothing can be stronger than the way in which Lord Campbell put it that he did not intend to put down medical works, physiological treatises, and standard authors; and yet every one of them might be practically put down, if by a verdict of guilty here you make every

common spy and informer able to go to the shops of the best publishers of London, and put them to the annoyance and expense of such a prosecution as this, simply because by a verdict of guilty against us you will have given a verdict of guilty against every one of them. I think I may fairly argue that the difference between coarseness and obscenity is this—that obscenity is coarseness written with intent to corrupt, with intent to vitiate, with intent to destroy the good feelings and arouse the evil ones. Coarseness has not that meaning; it is low, it is revolting, but it does not endeavour to corrupt. The learned Solicitor-General pointed out a passage which, by itself, he thought would move your feelings, and I think he was wise in the matter of not reading the whole of the book to you, for if he had done so you would have seen that what he read as obscene was simply a part of the whole work. Take this passage from “*Tristram Shandy*,” and judge what would be the feelings of some people in hearing it read out in public; I shall not read it, but will simply hand it up to you.

THE SOLICITOR-GENERAL: I am very reluctant to interfere, my lord; but I think I must take your judgment whether or not such passages ought to be read.

MR. BRADLAUGH: I should submit, respectfully, that it has been decided over and over again, that if we prove the publication of a work—and no work will be produced which we are not prepared to prove the publication of—we shall have the right to put in the passages as evidence at any rate, if not to read them as part of the defence.

THE LORD CHIEF JUSTICE: How can two negatives make an affirmative?

MR. BRADLAUGH: I do not put it on that ground, my lord; but there have been some very strong arguments as to the right to refer to other publications——

THE LORD CHIEF JUSTICE: Have you got the authority?

MRS. BESANT: It is in the case of the *King v. Carlile*.

THE LORD CHIEF JUSTICE: Well, I remember a case that the late Serjeant Thomas defended here in which, upon an indictment of a similar character, I do not think it was reported, but I happened to be present in court; he read a long string of passages, and referred to a variety of public representations.

MR. BRADLAUGH: I shall be prepared to argue the point later on, my lord. I have the case looked up, but I did not think it would arise so soon.

THE LORD CHIEF JUSTICE : Then, perhaps, this would be a convenient time to adjourn ?

MR. BRADLAUGH : If your lordship pleases.

The Court then adjourned for lunch.

After the adjournment,

MR. BRADLAUGH said that, with regard to putting in the publication "Tristram Shandy," it was not intended by the defendants to do so in any way as evidence, but they were entitled to read or to communicate it to the jury as part of the defence.

THE LORD CHIEF JUSTICE : I have been consulting with my learned brothers, and they agree with me that it is so. I am bound to reject every publication as evidence, but I can't prevent Mrs. Besant from committing a passage to memory and reciting it as part of her speech, nor from reading from a book as if reciting from memory. But the book is not evidence, and need not be proved, nor must it be handed to the jury.

MR. BRADLAUGH : There is a curious case, but, unfortunately, it is only the informal report of a Recorder's opinion. It is the case of the King *v.* Carlile, in which a reference to a public newspaper was objected to because, as was said by Mr. Adolphus, it might have been printed in the defendant's back shop ; and the Recorder said to Mr. Carlile, "If you mean to read that, you must prove its publication."

THE LORD CHIEF JUSTICE : A person could not be supposed to recollect the whole of it. [To Mrs. Besant]. You can read anything you wish.

MRS. BESANT : I do not propose to read any quotations from "Tristram Shandy," my lord ; it would be an utter waste of the time of the Court. I was stopped when I was going to hand up to you "Tristram Shandy," and the Solicitor-General objected to the book being put in evidence. I quite agree that books ought not to be put in evidence on any point unless the publication of these books be proved, because if you do that you would open the door to a large amount of abuse ; and, although we might not take advantage of it, it might seriously, if it were permitted by the learned judge, prejudice or unfairly decide trials in the future. Therefore, I do not think it would be worth while to read any passages of "Tristram Shandy" to you, although if it had been permitted and thought right by the learned judge, you might have glanced at a single passage, and have seen

how far one passage might be used to destroy a whole book if, as the Solicitor-General has done, you were to pick out a passage most likely to prejudice the book. I simply want to show to the jury how books which you find in the library of every gentleman who has any pretence to culture or education might be branded in the same way, and put down by an ignorant jury as obscene publications. I have one great advantage—I do not for one moment conceal it from myself—and that is the fact that it has been thought right in this case to give us the very great advantage of a special jury, because, to hand up to an ignorant jury a passage from “*Tristram Shandy*” would be utterly condemnatory of the whole book ; but from the circumstances of your education, and from your having had the opportunity of becoming perfectly familiar with the whole of our standard English literature, I feel that I have nothing to fear from a miscarriage of justice, such as I might fear from a jury less cultivated. I put it to you that in any one of those books which every one of you have in your libraries, you could find passages which, if taken by themselves, might be said to have a tendency to vitiate and corrupt, and I think I shall not be dealing unfairly if I say to you that in every great dramatist of England you would find such passages. I take Shakespeare as an example, whom no one would desire to see blotted out of our literature, and imagine that some spy of some society—we will say of the Society for the Suppression of Vice—took one of Shakespeare’s poems, such as “*Venus and Adonis*,” and founded a prosecution on it. We all know that it would break down. But you must not forget that a publisher’s prosecution means an enormous amount of damage to him, whether a verdict is obtained or not. Some people (two or three in every town) devoted to us, and wishing to serve us in the same way that Hetherington was served, though most unwisely, might institute prosecutions against other booksellers for selling works of a similar character. Imagine the number of prosecutions to which your verdict would give rise. You would throw open prosecutions against every bookseller in London, with the exception, perhaps, of some little publisher who has not the power or the capital to publish books that the public want to read. You do not want to throw open the door to every mischievous man who seeks notoriety, to prosecute such publishers as Churchill, Longman, and Smith. I might also allude to the

works of Mr. Bohn, who will be one of the witnesses for the defence in this case, and whose Standard Library gives text-books for the education of your sons in every public school in England. Do you want to offer a premium to every miserable spy, who may wish to ruin these men by the chance he possesses of getting a verdict in his favour? I would remind you that you are going to take the effect of language into your consideration, and you will see that the comparison between Knowlton and these dramatists, on the question of the effect on the passions, is in Knowlton's favour, because medical books have no tendency to arouse sexual feelings. If you want a book of an improper character you must carefully avoid physiological works. Your common sense tells you that a medical book is a book that no man or woman would read for the purpose of arousing sexual passions of any kind. I will come to that in a later portion of my speech. If you want to arouse sexual passion you might do so by some foul works, and you might even do so by some of the grandest of our dramatists and novelists. You will find passages calculated to arouse sexual passion in Fielding, Congreve, and Wycherley, but you will never arouse that passion by dry physiological details put forward in dry technical language. I put that to you because I say that while the language in many of these books would arouse the sexual passions far more than the language of any medical book, it would be an utter blunder—I say it would almost be a crime—to prosecute these books because of occasional coarse passages in them. If you are going to give a verdict of guilty against me—a verdict that means to me the momentary destruction of all that I work for—you must make up your minds that no statement that certain passages might be more carefully worded will authorise you in giving that verdict. I say to you, remember that in the days to come you will never free your minds from the remembrance of what is happening in this court. The verdict that you give may mean to us almost destruction—destruction against which we are strong enough to fight—destruction that will not ultimately touch our future very much, though unkind things may be said about it. If you give a verdict thoughtlessly, carelessly, or indifferently, carried away by prejudice against me and my co-defendant—if, I say, you give a verdict against us which you would not give against your wife, your daughter, or your brother—a verdict based not on evidence, but based on a prejudice against us because of other work in which we

have been engaged, I remind you at the very outset of this case that a great responsibility rests upon you, and that you will remember during all the remainder of your lives the verdict you will give at the close of this trial. I do not say so to prevent you from giving a verdict of guilty. Every Englishman and citizen has the duty to discharge the functions of juror without any regard to the consequences that will flow from his verdict to those whom he convicts of crime. But I say, do not let any carelessness or thoughtlessness prevent your giving your whole brains and hearts to a decision that is vital to us both. I have now to remind you of the definition of obscene, which I put forward, and I ask you to bear it in mind ; I do not propose to repeat the arguments, but simply to read the words upon which I rely. If you are to narrow it down to the definition of Lord Campbell, he says that his Act is intended to apply to works "written for the single purpose of corrupting the morals of youth, and which are of a nature calculated to shock the common feelings of decency in any well-regulated mind." We stand or fall upon the definition. I remind you—and unless you take Dr. Knowlton's pamphlet to be written with the single (but not possible) purpose, in the mind of the writer, and in the mind of the publisher (which for the purposes of this trial are identical)—unless you think it written for the single purpose of corrupting the morals of youth, you have no right to bring in a verdict of guilty against us ; and I lay stress upon this, because Lord Campbell says, "The question whether the pictures or books impugned were obscene or not, is to be left to the jury to decide." My lord, I don't know whether I am going out of my case, but I think if the light could be prevented falling on the jury-box, it would be an improvement. It is a great point to me to keep the jury in good temper, my lord. (Laughter.)

The LORD CHIEF JUSTICE directed that this inconvenience should be stopped, and added : I must do you the justice to say, that up to this time you have said nothing that could produce any other result.

Mrs. BESANT : If I say anything that goes further, it will be because I think it necessary to win my case, and that is vital to me. The Solicitor-General made one remark which I had the pleasure of agreeing with, and I did not agree with much that fell from my antagonist's lips. He said that you are the guardians of public morals. There is no point on

which I feel more strongly than the value of our present system of law, and it is because of that that my co-defendant and myself, instead of publishing the work and leaving it to be prosecuted, thought it the best plan to challenge the verdict of a jury, because we believe that the verdict of a jury is the right, legal, and constitutional fashion of settling questions of this kind ; so much is this the case, that the jury have the whole decision in their hands in these cases. I have no doubt that the learned Judge on the bench would endorse what I say to you, when I put it that even the judge's opinion is not binding on the jury. The judge has a right to lay down the law and explain the law, and the jury has the duty of finding a verdict in accordance with the law, and I press that upon you, for while I don't want for a moment to pretend that the Lord Chief Justice will rule against us ; while I have the utmost confidence in his complete and thorough impartiality in this case—feeling sure that what he believes to be right he will say without favouring either the one or the other, and without fear of anything outside which may go in favour of one side rather than the other—while I have the most complete confidence in him, I do not want that one single member of the jury should for one moment imagine that he can throw his responsibility upon the learned judge who lays down the law in this case. I am dealing with a question on which I might pile up authorities one after the other ; I do not intend to do that, although in a case so important as this I must guard myself step by step by those precedents of English justice which are the real safeguards of justice in our land. I will point out to you that the Lord Chief Justice Eyre, dealing with the case of the *King v. Hardy*—and I am now quoting from proceedings taken in the Old Bailey in a case of high treason—a case where the life of a man hung upon the decision of a jury—you will find that Lord Chief Justice Eyre distinctly lays down that the responsibility lies upon the jury, and not upon the judge : “ Every verdict upon a clear point of fact ought to be the jury's own choice, and in a case of this nature more particularly so, because, to be sure one great object of this prosecution is, that the country may be satisfied, that they may see that the public justice of it has taken its fair course, and that the prisoner has that deliverance made for him which the laws and constitution of the country in his case call for.” He laid it down that the responsibility of the

verdict did not lie with the judge. I find that the Right Hon. Chief Justice Pennefather, dealing, thirty or forty years ago, with one of those cases that aroused so much the popular feeling of the country—the case of *The Queen v. Daniel O'Connell* and others that I find in “*Shaw's State Trials for 1844*,”—the judge laid down the doctrine that, whatever the judge's opinion might be, the jury were “the constitutional judges to determine and to come to a just conclusion.” And you will also find that Erskine, to whom I referred before, pointed out that the jurymen were the real judges, and added that they were to “examine the judge's opinion as rigorously as that of the advocate at the bar”; and the curious point in that case is, that, while the judge summed up directly against the prisoner, the jury gave a verdict against the judge. Gentlemen, I put these cases before you because I desire you to feel that it is not possible for you to shift in any way the responsibility on to his lordship, in whom rightly and naturally you must have such thorough trust. If this question were by English law to be decided by him, I should be fully content to put my fate in his hands; but when the English law bars the judge from the verdict, and gives it to the hands of the jury, then I must remind you that you cannot evade your responsibility. The learned Solicitor-General told you that you are the guardians of public morals; and if you give a verdict against us, it will make a grave breach of morality, which it will take many decisions to cure. If I say that, do not think that I say it because I have not confidence in the verdict of twelve men, sworn to do justice between the Queen and ourselves. I do not forget what Whiteside put so well in his great case, when he was speaking on behalf of some of those who were tried with Daniel O'Connell. Although an advocate there, you cannot forget that Whiteside afterwards became Lord Chief Justice of Ireland, and gave from the bench proofs of that genius which he had so long shown at the bar. Gentlemen, the question for your consideration is whether in days to come you would wish your names to be handed down to posterity amongst the juries who by their verdicts have induced freedom, or whether they shall be handed down with those who have narrowed freedom, those who, in cases such as this, wherein liberty of discussion has been concerned, have returned verdicts of repression, verdicts afterwards to be reversed, as all such verdicts are, on

appeal to the higher court of posterity. Do you, gentlemen, think for one moment that myself and my co-defendant are fighting the simple question of the sale or publication of this sixpenny volume of Dr. Knowlton's? Do you think that we would have placed ourselves in the position in which we are at the present moment for the mere profit to be derived from a sixpenny pamphlet of forty-seven pages? No, it is nothing of the sort; we have a much larger interest at stake, and one of vital interest to the public, one which we shall spend our whole lives in trying to uphold. The question really is one of the right to public discussion by means of publication, and that question is bound up in the right to sell this sixpenny pamphlet which the Solicitor-General despises on account of its price. We are not fighting simply to obtain your verdict for the sake of selling this work. I, personally, don't care, if your verdict is in my favour, to sell another copy. I sell it so long as the detective police spies and secret agents of a society calling itself a Vice Society resort to the practices that they do to get respectable booksellers into trouble; so long as that goes on, so long shall we endeavour to uphold those principles which we maintain with reference to the right of public discussion, by fighting this great battle until we win ultimate success. This pamphlet is valuable to us just as is the piece of silk to the soldier who wins the battle for his country: it is the flag which represents the cause we have at stake. It is with that feeling—and that feeling alone—that we stand here to-day to uphold the right to publish this pamphlet, and I fight that I may make here the right of open and free discussion on a great and important social subject. There are various rights of speech which the public enjoy. The right of discussion in theology is won; the right of publicly discussing politics is won; but as to discussion on social subjects, there is at present no right. There will be this day week, if your verdict is in our favour, because, you may depend upon it, that verdict once given no one will ever go against it; everyone will then feel free to discuss a point of vital interest to society; but till that verdict, that right is not one which can be exercised with impunity. However much you may disagree with Dr. Knowlton's theories—and I don't pretend to agree with him on all his points—however much I say you disagree, that is no reason why you should brand

his book as obscene. Difference of opinion is not to be taken as proof of obscenity against any particular subject, and the more you may differ in opinion from Knowlton so much the more jealously should you guard his right of discussion. If it were only to gain your sympathies with Dr. Knowlton's work, I would not waste your time or mine here to-day ; but it is because I want you, by your verdict, to lay down this great and just principle—that opinion, honestly given opinion, honestly expressed opinion, freely and fairly published, shall not be prevented public expression because a police-officer does not agree with the opinion so expressed upon matters in which probably he is not at all informed. I have in my hand the opinion of Mr. John Stuart Mill, in which he treats of the right to free discussion : he says, in his *Essay on Liberty* : “But I deny the right of the people to exercise such coercion, either by themselves or by their Government. The power itself is illegitimate : the best Government has no more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it. If all mankind, minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.” I put it to you that a medical work, published by a medical man of eminence to raise a great public and social question, must not be branded as obscene because you disagree with it ; but the more you disagree the more you are bound to give weight to the arguments we put forward here. But, after all, does any single one of you believe that my co-defendant and myself desired, in publishing this work, that it should tend to corrupt the morals of the public ? This is not a question merely of publishing an indecent work. For what reason are we dragged here—a man and a woman whose whole lives disprove the allegation against us ? What hidden motive is there for bringing us here to answer so monstrous an accusation ? White-side once said of a prosecution in which he defended the prisoner (and may not his words be used to-day with reference to the present proceedings ?) : “The whole object of this unprecedented prosecution is to stifle the discussion of a great public question. Viewed in this light, all other considerations sink into insignificance ; its importance be-

comes vast indeed. Destroy the right of free discussion and you dry up the sources of freedom. By the same means by which your liberties were won can they be increased or defended." It is said that that principle of free discussion may be carried too far, but Whiteside, whom I have just quoted, deals with that point, in reference to prosecution on these matters. He holds that prosecutions, with regard to division of opinion, are unjust and unfair, as I shall show you this prosecution is in a few minutes. "Quarrel not," he says, "with the partial evils free discussion creates, nor seek to contract the enjoyment of that greatest privilege within the narrow limits timid men prescribe. With the passing mischiefs of its extravagance contrast the prodigious blessings it has heaped upon man. Free discussion gave to Europe the reformation, which I have been taught to believe the mightiest event in the history of the human race—illuminated the world with the radiant light of spiritual truth. May it shine with steady and increasing splendour. Free discussion gave to England the revolution, abolished tyranny, swept away the monstrous abuses it rears, and established the liberties under which we live. Free discussion, since that glorious epoch, has not only preserved, but purified our constitution, reformed our laws, reduced our punishments, and extended its wholesome influence to every portion of our political system. The spirit of inquiry it creates has revealed the secrets of nature—explained the wonders of the creation, teaching the knowledge of the stupendous works of God. Arts, sciences, civilisation, freedom, pure religion, are its noble realities. Would you undo the labours of science, extinguish literature, stop the efforts of genius, restore ignorance, bigotry, barbarism, then put down free discussion, and you have accomplished all. Savage conquerors, in the blindness of their ignorance, have scattered and destroyed the intellectual treasures of a great antiquity. Those who make war on the sacred right of free discussion, without their ignorance, imitate their fury. They may check the expression of some thought, which might, if uttered, redeem the liberties or increase the happiness of man. The insidious assailants of this great prerogative of intellectual beings, by the cover under which they advance, conceal the character of their assault upon the liberties of the human race. They seem to admit the liberty to discuss—blame only its extravagance, pronounce

hollow praises on the value of freedom of speech, and straightway begin a prosecution to cripple or destroy it." That is exactly what our prosecutors are to-day trying to do ; don't forget that stopping us in our object will only tend to cause some others to rise on the same subject, who may do better than those who went before them ; but if you find a verdict of guilty against us you may stop the discussion of the whole population question until we try the matter again. I will ask you whether, when I unfold to you the nature of this prosecution, you will not feel that Knowlton is not guilty of using the word marriage to cover obscenity, but rather that the prosecution is using the name of Knowlton to smother the right of free discussion and free press in this country. Now, gentlemen, I must appeal to you on a simple matter of justice. I must ask you to look at the way in which this prosecution is conducted. I asked Detective Simonds what his weekly wage was, and how long he had been in the detective force. Probably, when I asked him those questions, you may have thought that I was asking useless ones without an object, and although in most instances you would have been right in considering they were not directly to the issue, and therefore inadmissible according to the laws of evidence, I asked them with no idle intention. I asked them for this reason—It is one of the principles of English justice, that those accused shall be placed face to face with their accusers, and shall understand who brings them to answer before the bar of justice. Our difficulty in knowing the aim of the prosecution is, that we don't know at the present moment who is prosecuting us. When first we were arrested and taken to the Guildhall we were kept waiting for more than two hours shut up in the cold and uncomfortable cells under the Guildhall court of justice. We were then told that we were kept there to await the presence of the City Solicitor, who had the conduct of the prosecution. Hearing that, we thought we were to fight a prosecution conducted by the city authorities. We wrote to the City Solicitor, and our belief was strengthened by his answer, because the City Solicitor, writing on the paper of the Corporation, using the stamp of the Corporation, and signing under his name "City Solicitor," has only the right to use the funds of the city to conduct prosecutions for the city authorities ; we naturally then believed that we were being prosecuted by the city authorities. Imagine our astonishment when on Mr. Bradlaugh asking whether that was

so, we were told that "the Corporation of the City of London has nothing and never had anything to do with the prosecution against you and Mrs. Besant"! This came to us as a greater surprise because Mr. Douglas Straight, instructed by the City Solicitor, said in open court that he appeared on behalf of the Corporation. You may imagine that we found it difficult to discover what private malice had been brought to bear in the institution of the prosecution against us. We tried to find out; we wrote to the solicitor and he wrote us telling us the Corporation had nothing to do with it, and referred us to the head of the Police of the city, who in his turn, in answer, said he had nothing to do with it and that we must refer to the information. We found upon the information the name of William Simonds, there being no address given. We wrote for the address, which was furnished to us, and we then wrote to detective Wm. Simonds asking if he were the man responsible. We received in return merely an answer expressing his pleasure at receiving our letter. Now Mr. Wm. Simonds has been in the force for 13 years. He commenced at 28s. a week, and has risen to 31s. 6d., and he has some clothes in addition. I will ask you to use your common sense whether Mr. Wm. Simonds on 28s. a week, rising to 31s. 6d., has made such large economies that he has been able to save sufficient money out of his salary to find the fees and engage the services of the Solicitor-General, Mr. Douglas Straight, and Mr. Mead, instructed by the City Solicitor, to prosecute us? If it be possible to live upon so small a sum of money and also put by sufficient means to fight one's difficulties with the aid of a powerful retinue of legal advisers such as the learned counsel engaged in this case, there can be no necessity for appealing to Dr. Knowlton's work with any desire to keep down one's family on the ground of want of means. (Laughter.). Why, when Dr. Knowlton's work was commenced to be published in England—that was forty-two years ago—Mr. William Simonds must have been a little boy. He must have made this prosecution the far-off ideal of his life, and undoubtedly he must have commenced to have saved the 6d. or 9d. a week, which he should have spent in sugar-plums or toffee, to have then commanded means sufficient to have retained the services of the Solicitor-General and these other gentlemen. Now, see the position in which we stand with regard to this prosecution, which is a disgrace to English justice. If we win. the

whole of the costs will fall on William Simonds—as the country allows nothing for expenses—as the only responsible prosecutor in this case. We know that the Queen is nominally our prosecutor, but there is no public fund out of which the costs of our prosecution can be paid. Where, I should like to know, do the costs come from, and who is hidden behind the city constable that they refuse to let us and you know? If we win the verdict, who is to pay the costs? Poor Wm. Simonds—is it possible that we can look to him? or are there people hidden behind the coat of the city detective, of whom we have a right to hear, and the hiding of whom tends to open the door to the greatest scandal in the prosecution of public justice in this country? Where has this sudden virtuous inspiration sprung from? I have a right to assume its real origin, because our names have been dragged into another prosecution which is being carried on, and which was only commenced in order to prejudice this case. Its representatives are here to-day, brought here lest the failure of the Solicitor-General and the two learned counsel whom he leads should need the fostering care of these hidden abettors. Forty or fifty years ago there was a society called the Society of Vice, but better known as the Bridge Street gang; in this Society, under cover of a few respectable names, a herd of spies and informers carried on their despicable work, and hunted down honest booksellers, whose works are now found on the shelves of every thinker. This society sank out of sight under a weight of shame and disgust, but it has again arisen, and is once more at its foul work. It is to-day worthily represented by its secretary, Mr. C. H. Collette, solicitor, and he boasts openly that he “prompts” the Solicitor-General against us. That he is starting all these prosecutions is very suggestive, and I ask you whether you will countenance a society like that, sheltering itself under a police detective in order to prosecute a man and a woman who are spending their lives in trying to do good to their fellow-creatures? If you think we are wrong in doing so, we must bow to the result of your verdict; but I submit that the whole conduct of this prosecution has been malicious and disgraceful, and I trust that in a case like the present you will pause before you give a prosecution, instituted as this one has been, any encouragement. I now come to deal with the pamphlet itself. The Solicitor-General has read the whole of the preface, and

has thus saved me from having to read it over again. Allow me to refer to the history of the pamphlet. The Solicitor-General exhibited a curious—if not a pretended—ignorance on the subject when he spoke of “Mr. Knowlton.” No doubt the learned Solicitor-General’s time has been so fully occupied in the conduct of his wide criminal practice, that he has had very little opportunity of studying the details of medical works; Mr. Chas. Knowlton might be anyone; but Chas. Knowlton, M.D., is a medical man, who, by reason of his position, has more right to deal with physiological details than a layman. He was an M.D. in good practice in Boston, which city is said to be considered by the Americans as the “hub of the universe”—the “hub,” meaning the acme of culture, of education, of scientific thought and ability. Chas. Knowlton not only practised in Boston as a leading physician, but he was also a contributor to the foremost scientific journals of that city. That city is the American centre of pure intellect, and the greatest proof that I can give you of the qualifications of Dr. Charles Knowlton is the fact of his contributing to those journals, when I tell you that those leading medical journals of the city of Boston rank in the same category as do the *Lancet* and *Obstetric Journal* published in England. I point out that to you with a knowledge that these are not matters of evidence, but because I think it important to you to know that Dr. Charles Knowlton was not only looked up to and respected throughout his native town but throughout the whole of the United States. In consequence of its not being evidence we did not think it worth while to bring from America Messrs. Seaver & Mendum, the proprietors of the leading Boston Freethought paper, to prove that Dr. Knowlton was to their knowledge a man of blameless life. I contend that such observations as those of the Solicitor-General should not be allowed to be brought against the character of a man of Dr. Knowlton’s capacity, and that it is going too far, even in a criminal prosecution, to cast unfair slurs on the name of a dead man. Dr. Knowlton’s book was published in America, and was largely sold there. In 1833 it was published in London by Mr. James Watson, who died the year before last. He also was a man of unblemished life, who, while he had been prosecuted by the Government for the sale of political and other pamphlets, now generally published, had never had the smallest shadow cast upon him as seller of an indecent book. He was one of those men who persisted in selling

unstamped papers, and the penny newspaper press of this country is the result of the struggles in which Mr. James Watson took part; it was the result of those struggles which made it possible to sell for a penny those journals which were previously sold bearing a sixpenny stamp. When he died he was honoured by all who knew him, even by those who had prosecuted him in his lifetime. That was how this book was first issued forty-four years ago. Mr. James Watson died, as I have already said, about a year and a-half ago. We had thought of putting his widow into the box to prove the publication; but in consequence of her ill-health, and her desire not to be troubled with an examination in a public court, we have determined, in reverence for the memory of her dead husband, not to bring her here against her will. The book was not only sold by Mr. James Watson but also by Messrs. Holyoake & Co. One of this firm was Mr. George Jacob Holyoake, whose name is probably fairly well known to you. The other was Mr. Austin Holyoake. He it was whose "Thoughts in a Sick Room," written when he was dying, were spoken of admiringly by Miss Frances Power Cobbe, a lady whose opinions might not be supposed to be favourable to such a man as Austin Holyoake. He recommended this book, in a pamphlet of his own, in conjunction with Robert Dale Owen's "Moral Physiology," and the "Elements of Social Science," a book which no one yet has had the courage to attack. It was also sold by Brook & Co., 282, Strand, but I will not conceal from you that the moment the prosecution was instituted the last-named firm sold the copies they had at once, that they might not stand in the same position as we stand in to-day. It is not pleasant for booksellers to stand in such a position, and I cannot blame them if they did not persist in the sale of the pamphlet. From Mr. Holyoake the book went into the hands of a Mr. Charles Watts, and on James Watson's death he bought the plates of the work together with many others from the widow. His plea to the indictment of wilfully publishing an obscene book was, as you know, a plea of guilty. The Solicitor-General, doubtless from forgetfulness, entirely omitted any reference to that trial, and spoke as though we republished the book because of the Bristol affair. It is not the case that we published the book because of the prosecution of the man named Cook, at Bristol. We should never have troubled to republish a book because a man named Cook, at Bristol, had been

called up about it. It seems, from the reports I have seen, that he was not really called up for this pamphlet, although nominally he was prosecuted for it; he was a bookseller of known bad character, and he sold very few of these works, because they are not written in a style which a vendor of obscene literature would find it profitable to sell. It so happened that this Mr. Charles Watts had published for my co-defendant for some years, and for me for a short time, thus somewhat connecting our names with his, and bringing us into the disgrace of his yielding. Mr. Watts thought it right to plead guilty, and I feel this fact is calculated to prejudice our case, and that if you did not hear our defence the very plea of guilty, put in by the man who published the book, would make you put the book down to be one of that set of obscene publications which are sold for the purpose of making a large profit. We felt that the book could not be given up in that fashion. Gentlemen, that book had been published for more than forty years by those with whom my co-defendant had worked, and whose work I have inherited (for I have only come young into the work). That book being so published, we felt it our duty to the dead who had gone before, as well as to those yet living, that no plea of guilty should be allowed to stand, and that imprisonment should be braved rather than that the stigma of indecency should attach to those whom we reverence. Neither Mr. Bradlaugh nor myself had previously had anything to do with the purely technical details connected with publication. We took this new work upon ourselves in order that we might issue this book that everybody shrank from issuing. We were not printers before, but we became printers that we might print this book; we became publishers that we might publish this book; we took a shop that we might sell this book; and we did all this at a time when danger attached to it, and we had nothing to gain and much to lose by so doing. That, gentlemen, is the history of the book. The Solicitor-General stated that the sub-title of the book has been changed. Gentlemen, that is perfectly true. The sub-title of the book used to be "Private Companion to Young Married Couples," or, "Young Married People." That sub-title is just like the title of Dr. Chavasse's book. He calls his book "Advice to a Wife," and Knowlton's was called "Advice to Young Married Couples." Frankly, I don't like titles of that character. Dr. Chavasse's book is a good and a useful book, and labelling it "Advice

to a Wife" gives a kind of suggestiveness to it, and hints that you might get a special kind of knowledge, which is, I think, a mistake when you are dealing with a book to be put on railway bookstalls. But I hold that there is nothing indecent or obscene in calling a book "Advice to a Wife," or "Private Companion to Young Married People." Gentlemen, I have no experience of obscene literature; I have never seen a book which has been made the subject of a prosecution such as this, but I understand that it is the usual thing, where an obscene book is published, that the printer's and publisher's names are omitted, and they so evade responsibility. I may say there is no attempt at concealment here, when you find that right through this book is openly published; first by James Watson (holding up the works cited in turn), then by Holyoake & Co., then by Austin & Co., then by Brook & Co., then once more published by James Watson & Co. at a later address, then published once more by James Watson at another address, and, latterly, by the "Freethought Publishing Company," bearing the imprint "Printed by Annie Besant and Charles Bradlaugh." There is here throughout no concealment of publisher or printer. Having once found how the responsibility of the printer might be treated when it was challenged, we made up our minds to put our own names on everything we published for the future, so that we alone might be responsible for every word we thought it right to issue to the public. So much for the history of the pamphlet; now for the pamphlet itself. If it would not trouble you too much, gentlemen, I would ask you kindly to mark the passages with which I deal, because I don't want to give you the trouble of going over the same ground twice. I will first take the preface, for, although I thought that the preface could not be attacked, I heard it read by the Solicitor-General as part of the accusation. It might be thought that the case for the prosecution was so small that he was obliged to fill up the necessary time by reading the preface, for I don't see anything obscene or immodest in it. But to suggest that that could have been his object would be discourteous to my learned antagonist. I will refer to a passage at page 6, dealing with the publishers' preface, from "We publish this pamphlet" down to "sound judgment." I need not read it as you have already heard it read. The Solicitor-General said we do not "agree" in our preface with the medical views or the philosophical proem; we

simply wanted to guard ourselves against endorsing every one of the medical and metaphysical views of Dr. Knowlton. The Solicitor-General put it that we did not agree with them, but whether or not we agree with them, we are responsible for them for the purpose of this trial. However much we may disagree with Dr. Knowlton, we are responsible for every syllable that he has written. I hold that everyone who prints and publishes a book ought to be held to the fullest extent responsible for that which he issues to the public. I hold that nothing is so cowardly, nothing is so mean or so disgraceful, as for a publisher to issue a book, or for an editor to issue a journal, and then, when challenged by the law, to shrink back and say "I did not know what I was doing." If publishers are not aware of what is in the books they publish, they ought to be; and if editors do not know what is in their journals, they ought to know. You have no safety for character, or for morality, or for any of our valuable institutions, unless you make the publisher responsible for everything which he issues. Therefore, in saying that I don't endorse Dr. Knowlton on some points, I don't want to shirk full responsibility for all he has here written. That preface was written because we hold that, on social questions, discussion is a vital necessity, and we published Dr. Knowlton's views, not because we agreed with him, but simply because we think that his views ought to be heard. I agree with Dr. Knowlton's principle; I think that some kind of check to population ought to be adopted; but when this preface was written, I did not know enough of medical books to know whether his checks would tend to promote health. I put it to yourselves that it is a question very much discussed in France—what kind of checks are healthy to the women and the children. You must get that question settled, for on the question of the health of the women and children depends the deterioration or the improvement of the next generation. You cannot settle that question unless you permit doctors to discuss what checks are healthy and what are not. Amongst the French doctors' books I have read in the course of this defence, I have found some objections raised to some of the checks put forward by Dr. Knowlton. But, I say, you cannot deal with this question unless every man is free to put forward his medical knowledge without fear of prosecution, or of the disgrace of obscenity being attached to the book that he may issue. That may, perhaps, cover the

point of the Solicitor-General as to our agreement with Knowlton. I will only, in the next page, page 7, draw your attention to the three concluding lines of the first paragraph, with reference to the names of other works being given in foot notes. Not desiring that Dr. Knowlton's views should be taken without study, we thought it right to add the references, so as to afford any one the opportunity of seeing what might be said against as well as for. The preface says : " We advocate scientific checks to population, because so long as poor men have large families pauperism is a necessity and from pauperism grow crime and disease." I shall have to deal with that a little more fully later on, and I will only put it to you now, that you have got before you a great social question which is becoming more and more pressing as every year goes by—a question the gravity of which is recognised by men like John Stuart Mill, by men like Professor Fawcett, by men like Professor Cairnes and Professor Bain, as well as by some of those whom we shall put into the witness box. I must put it to you that if pauperism is the consequence of large families and that if from it grow crime and disease, then you will be bound to bring in a verdict of " not guilty," because we shall have shown that our object in publishing this pamphlet was not in any way to arouse the passions of the unmarried, but simply to prevent the curse of pauperism, which is becoming more and more a pressing question with every year that rolls over our heads. You will now permit me to refer to the former publisher's preface, which is not in the copy now before you. The Solicitor-General thought it right to put it to you, without offering one word of proof, that Dr. Knowlton used the word " married " to cover unmarried people, and that he really meant to suggest promiscuous intercourse. In fact, he speaks most warmly against it. You find he says : " It is a notorious fact that the families of the married often increase beyond what a regard for the young beings coming into existence, or the happiness of those who gave them birth, would dictate." He goes on, to say that in publishing the pamphlet his only object is to enable married people to have some control over the number of children they bring into the world. It is a fact that the object of this pamphlet, so far from destroying marriage and so far from approving any kind of illicit connection between the sexes—it is a fact that this pamphlet is written by Dr. Knowlton, and circulated by us to-day, for the purpose which the learned judge suggested

was a question of great importance, that of making early marriage possible to a very large number of young men to-day. Our object is not to destroy marriage but to make it more widely prevalent ; not to encourage prostitution, but to destroy that which is a very prolific source of prostitution, the shrinking of young men from marriage because of the terrible responsibility that marriage often brings with it. That is the object of my co-defendant and myself. I lay stress upon another part of the preface, because the Solicitor-General seemed to insinuate an objection to the idea : " without even a partial sacrifice of the pleasure which attends the gratification of the productive instinct." I put it to you that there is nothing wrong in a natural desire rightly and properly gratified. There is no harm in feeling thirsty because people get drunk ; there is no harm in feeling hungry because people over-eat themselves, and there is no harm in gratifying the sexual instinct if it can be gratified without injury to anyone else, and without harm to the morals of society, and with due regard to the health of those whom nature has given us the power of summoning into the world. I put it to you gravely, that it is only a false and spurious kind of modesty, which sees harm in the gratification of one of the highest instincts of human nature—an instinct which goes through all the world, not only in the animal but in the vegetable kingdom ; if you are to blame Dr. Knowlton because he recognises a great natural fact, then it is your duty to blame the constitution of the world, and the arrangements of nature, because you find that the reproductive instinct *is* attended with pleasure in its due gratification. The notion that pleasure *quâ* pleasure is wrong is an ascetic notion, which is at the base of a large amount of the profligacy of the present day. You even find it stated, right through the teaching of the Christian moralists, that Providence annexed pleasure to the reproductive function in order to ensue the perpetuation of the species. Take Jeremy Taylor. No one will say that in his " Living and Dying," he wrote a book intentionally calculated to arouse sexual desires. You will find he says that God appointed sexual pleasure in order to ensure the reproduction of the species. It is not only by those to whom the co-defendant and myself belong that this fact is recognised. You find it in the bishops of the Church of England and your great moralists. They say that it is the special plan of Providence so that the species in the animal and vegetable kingdom may be preserved. Mon-

taigne truly said, that it is only an impure mind which sees impurity in the function which brings mankind into the world. I put it to you that the pamphlet is specially addressed to the married, and there is not one single syllable in it that gives colour to the insinuation that the word "marriage" is used as a cover to unlawful desires. I now come to the Philosophical Proem. I do not agree with it, but I say there is not a single syllable which even the Solicitor-General can twist into indecency, and I hold that in order to convict on this indictment you must take the whole book to be obscene.

THE LORD CHIEF-JUSTICE: I don't want to interrupt you, but that is going too far.

Mrs. BESANT: Is it putting it a little too strongly?

THE LORD CHIEF-JUSTICE: You are wrong there. The question is whether the book is obscene, not whether there may be intermediary passages that are not obscene. You must take it as a whole. They have charged the whole book. The jury must look at the scope and effect of the whole.

Mrs. BESANT: I am much obliged to you, my lord. You must read the whole of the publisher's preface; and judge of that part which will tend to produce obscenity taken as a whole. I will call your attention to a sentence in the Philosophical Proem to show the tone of Dr. Knowlton. He speaks of—"Passions acquired by habit—habitually hankering for stimulants, as spirits, opium, and tobacco, is one of these." Dr. Knowlton, you will see, is not a man specially given to physical or sensual indulgence. You will find that on many points he is, what would be called by many people, ascetic. In the third paragraph you will see:—"That which gives rise to agreeable consciousness is good, and we desire it. If we use it intemperately such use is bad, but the thing itself is still good." How can the Solicitor-General, then, pretend that intemperate passion is advised by Knowlton? The only other passage in the philosophical proem with which I need trouble you is the second paragraph on page 3. We are told there, "Man by nature is endowed with the talent of devising means to remedy or prevent the evils that are liable to arise from gratifying our appetites, and it is as much the duty of the physician to inform mankind of the means of preventing the evils that are liable to arise from gratifying the reproductive instinct as it is to inform them how to keep clear of the gout or

dyspepsia." And I will put it to you that that is true. The doctor cannot pick out one portion of the human frame and say : I won't deal with that because, in so doing, I may be branded as indecent. It is the physician's business to deal with the whole man and woman, and so to deal with them that he may warn them from what disease is likely to arise, and what methods they may take in order to prevent such arising, and you will find right through this that Knowlton, writing as a scientific man to those whom he desires to instruct, is really giving them such physiological knowledge as will tend to the preservation of their health ; and, more than that, you will find that duty thoroughly recognised by other doctors as well as by Knowlton. Now, take the case of Dr. Acton, where he is dealing with some of the questions which are most objected to by the learned Solicitor-General. Knowlton also deals with them, and I take leave to say that, after all, a doctor of medicine in America may surely be permitted to deal with subjects that a doctor of medicine in England is also allowed to deal with. You find in dealing with Acton that he publishes a book treating right through of the functions and disorders of the reproductive organs, a book which he does not intend to go amongst medical men, but which he intends for more general circulation, because he distinctly says he hopes it will exert good influence on public health and public morals. You will find Dr. Acton arguing : " I have been entreated over and over again to urge on parents, guardians, schoolmasters, and others interested in the education of youth, the necessity of giving their charges some warning, or some intimation of their danger." Dr. Acton, gentlemen, is dealing specially with one of the intemperate practices to which Dr. Knowlton alludes in some five lines, and which Dr. Acton gives a large portion of his book to, and he is dealing there with the question as to whether it is wise or not to publish details of that kind, and he publishes here details which Knowlton does not, and you will find, when my co-defendant comes to deal with his book, that he clearly puts there that you cannot possibly—especially with young men—avoid their having knowledge regarding their own bodies, and that it is better—especially so long as you allow them to read the classics—that they should have some kind of what I may, perhaps, call an antidote, in physiological knowledge, to that thoroughly sensual set of ideas that they get in dealing with the classical authors ; and he says : " it is in this way that

men of my mode of thinking view the distinction between the modern newspaper details and the prurient literature which has been generally known as Holywell Street. In this last-named literary garbage, illicit pleasure was depicted in all its most attractive and meretricious forms, but the anonymous author, like the translators of the Greek and Latin lores of the heathen gods and goddesses omitted to allude to the frightful consequences that illicit love or bestial propensities produce on all those who directly or indirectly indulge their animal propensities." That, Dr. Acton says, is the distinction between decency and indecency, and right through this book you will find the strongest language employed by Dr. Knowlton against such intemperate indulgence as is bad for the health of those for whom he writes. With that, I think, gentlemen, I may almost leave this philosophical proem, although I had marked, to read to you, two sentences that follow the one I have just read to you, putting it that the reproductive instinct, being a physical need like hunger or thirst, comes as much within the province of the physician as any other part of the human body, and I will put here what is matter of fact—as later, I can show you from Mr. Darwin—that what Knowlton says about health is shewn to be true by the fact that married women live longer than unmarried women, and this is a point you get right through every census table that you can take up. You will find there that marriage has a distinctly lengthening effect on human life; you will find that bachelorhood or spinsterhood distinctly shortens life; and it is only reasonable it should be so, gentlemen, because those who despise the natural instincts of nature can scarcely be surprised if nature revenges herself by shortening the life which they do not know how to use. That, then, I will put to you, that you find—especially dealing with my own sex—that unmarried women (and if any of you are doctors you will know it well) suffer from a number of diseases, special to the reproductive organs, that married women, as a rule, do not suffer from, because they have not thwarted nature in the fashion that those who lead a celibate life must do. And I may say here, too, that Dr. Knowlton remarks that "mankind will not so abstain;" as a simple matter of fact, I must put it to you that men and women, but more especially men, will not lead a celibate life, whether they are married or unmarried, and that what you have got to deal with is, that which we advocate—early mar-

riage with restraint upon the numbers of the family—or else a simple mass of unlicensed prostitution, which is the ruin both of men and women when once they fall into it. I will pass, gentlemen, from that, on to the first chapter of Dr. Knowlton's essay. Dr. Knowlton writes the first chapter to show "how desirable it is, both in a political and social point of view, for mankind to be able to limit at will the number of their offspring, without sacrificing the pleasure that attends the gratification of the reproductive instinct;" and I will put it broadly, that mankind will not sacrifice the pleasure that attends the gratification of the reproductive instinct, and that you have got to deal with things as they are, and not with things as they might be—if ascetics could form the world better, as they think, than nature has already formed it. It has been put that the political economy of this pamphlet is only a cover for an indecent object. If so, it seems almost strange and suicidal on Dr. Knowlton's part that he should speak so strongly against profligacy as you find him do in this first chapter. It is not usual for a man who wants to induce young people to become profligate, to carefully point out to them all the harm that will come from their following his advice, and all the misery that will attend them in after-life if they carry out his suggestions. I am inclined to think, taking the learned Solicitor-General's point of view, that Dr. Knowlton, instead of being attacked for writing an obscene pamphlet, ought almost to have been shut up in a madhouse for taking the very means that must utterly destroy the end which he proposed to himself to attain. This chapter, then, which is part of the incriminated book, deals with a serious question of political economy, and I will draw your attention now to the first paragraph, "in a political point of view"—"If population be not restrained by some great physical calamity, such as we have reason to hope will not hereafter be visited upon the children of men, or by some *moral restraint*, the time will come when the earth cannot support its inhabitants. Population, unrestrained, will double three times in a century. Hence, computing the present population of the earth at one thousand millions, there would be at the end of one hundred years from the present time, 8,000 millions; at the end of 200 years, 64,000 millions; at the end of 300 years, 512,000 millions, and so on, multiplying by eight for every additional hundred years. So that, in 500 years from the present time, there

would be thirty-two thousand seven hundred and sixty-eight times as many inhabitants as there are at present. If the natural increase should go on without check for 1500 years, one single pair would increase to more than thirty-five thousand one hundred and eighty-four times as many as the present population of the whole earth!" I urge, gentlemen, that this chapter cannot be separated from the book when you are dealing with the intent of the book; that you have no right to presume an indecent intent unless you have some amount of proof which shall show that the intent is bad; and I urge that the whole of the tone of this first chapter directly negatives the contention which the Solicitor-General put forward to you in opening the case for the prosecution. That contention of Knowlton is one that is thoroughly and fully recognised by others; and when you are dealing with it, if you once allow my definition of this first chapter to stand, you cannot convict on the remainder of the book; because, if I can prove to you that you must have some checks on population—that you have only got the choice between the checks of vice and misery and the scientific checks for which we plead—if I can prove that to you, you cannot bring in a verdict of guilty against us. You may say, "physiological details are introduced;" but you cannot discuss the population question without introducing physiological details. You may lay down the law, as Knowlton does in his first chapter, without physiological details; but it is no good laying down the law if you don't apply the law; and you cannot apply the law until you make the people acquainted with the simple mechanism of their own bodies, as Dr. Knowlton does here; and I will put it that there is nothing more hopeless to us than if the increase of our knowledge is simply to point out to us the doom which we are powerless to avert; you had better have no political economy at all, no science at all, if that science is only to drive us to despair by giving us the knowledge of an approaching misery, while you forbid us in any fashion to discuss the means whereby we may avert it; you can no more discuss the population question without physiology than you can solve an arithmetical problem without figures. If you tried to do it you would utterly fail; you might lay down your law, but you could not apply it without the details. The economical law teaches the danger of over-production; nature teaches us that men and women will marry; and the object of medical science is to teach us how the

law of political *economy, and the law of nature, may be shown so to dovetail into each other, that they may be both obeyed by human beings without wrong or harm being done to any one. The prosecution, when pressed specially—I may say pressed almost by the learned judge himself—picked out one or two extracts of the book which it characterised as specially obscene. Our duty is, then, to bring forward the other parts of the book which show that those parts of the book are simply necessary for the solving of the question in hand ; and as the intent is part of the indictment, if I can show you that Knowlton's intent, and, therefore, our intent, is a scientific intent, you will be bound to bring us in not guilty of the indictment against us. That I think you will find to be so strongly decided in a number of trials that I have put down here, that unless my course of dealing with it is objected to by the prosecution I won't trouble you with the references I have made. On the fourth page you find Knowlton putting forward :—“Some check, then, there must be, or the time will come when millions will be born but to suffer and to perish for the necessities of life. To what an inconceivable amount of human misery would such a state of things give rise ! And must we say that vice, war, pestilence, and famine, are desirable to prevent it ? Must the friends of temperance and domestic happiness stay their efforts ? Must peace societies excite to war and bloodshed ? Must the physician cease to investigate the nature of contagion, and to search for the means of destroying its baneful influence ? Must he that becomes diseased be marked as a victim to die for the public good, without the privilege of making an effort to restore him to health ? And, in case of a failure of crops in one part of the world, must the other part withhold the means of supporting life, that the far greater evil of excessive population throughout the globe may be prevented ?” Gentlemen, that is practically putting that law of population, which was laid down first, in the year 1798, by the Rev. T. R. Malthus, who was a fellow of Jesus College, Cambridge, and a professor of history and political economy at the East India College, in Hertfordshire. Malthus wrote that the law of population, which he then pressed on the people of his time, was that “there was a constant tendency in all animated life to increase beyond the nourishment prepared for it. It is observed by Dr. Franklin that there is no bound to the prolific nature of

plants and animals but what is made by their crowding and interfering with each other's means of subsistence"; and he goes on to say, "And it may safely be pronounced that the population, when unchecked"—and I lay great stress on the "when unchecked," that you may find out the terrible nature of those checks, against which we are setting ourselves in this trial—"population, when unchecked, goes on doubling itself every twenty-five years, or increases in a geometrical ratio. The rate according to which the production of the earth may be supposed to increase will not be so easy to determine. Of this, however, we may be perfectly sure, that the ratio of their increase in a limited territory must be of a totally different nature from the ratio of increase in the population. A thousand millions are just as easily doubled every twenty-five years by the power of population as a thousand, but the food to support the increase of the greater number will by no means be obtained with the same facility. Man is confined in room. When acre has been added to acre until all the fertile land is occupied, the yearly increase of food must depend on the amelioration of the land already in possession." That is the way that Mr. Malthus puts it, and I may perhaps deal there with the figures he puts because he puts it so clearly that I think that by reading this I shall give you the whole gist of Malthus's "Law of Population." "Let us call," he says, "the population of this island eleven millions. Suppose the present produce equal to the easy support of such a number (and I may remind you, in passing, that the population which Malthus speaks of as eleven millions—which was then nearer ten millions—has since then gone up to something like twenty-three millions, while, as you know from the price of food, food has not multiplied itself with the rapidity which population has done), "in the first twenty-five years," he says, "the population will be twenty-two millions, and the food being also doubled, the means of subsistence would be equal to the increase. In the next twenty-five years the population would be forty-four millions, and the means of subsistence only equal to the means of twenty-three millions."

THE LORD CHIEF JUSTICE : He hardly makes any allowance for deaths. He gives the actual increase, and not the ratio?

Mrs. BESANT : He deals with that further on, and I shall

show, in a few moments, the checks that keep it down. Mr. Malthus does make allowance for what should be the ordinary death-rate, and he points out the misery that results from war and starvation, which are the checks that are acting to-day; and that is the justification, my lord, for our pamphlet.

MR. BRADLAUGH: I do not know how long your lordship will sit. At this stage Mrs. Besant is about half-way through the matter which she has to bring before your lordship. I have been following it on the brief.

THE LORD CHIEF JUSTICE: We must go on, I think, for another half-hour, unless Mrs. Besant feels exhausted.

MRS. BESANT: Oh, no; I can go on.

THE LORD CHIEF JUSTICE: Then I think we must take another half-hour.

MRS. BESANT: The reason why I am bringing this forward, gentlemen, is that I shall have to show you—as I can show you, and I shall bring some figures to-morrow morning to show you and the learned judge—that the population does double itself in 25 years, in countries where food is sufficient to support it. That, gentlemen, is really the justification of our pamphlet; for we believe that the present checks that keep population down are the misery and starvation that result from over-crowding, and we want to substitute scientific checks for those. I was quoting from Malthus, where he was pointing out the rate of subsistence that is natural to the human kind; you find in the “second 25 years the population gets to 44 millions, and the means of subsistence to only 33 millions. In the next period the population is 88 millions, and the means of subsistence just equal to half. At the conclusion of the first century, the population would be 176 millions, and the means of subsistence only equal to the support of 55 millions, leaving a population of 121 millions totally unprovided for”; and then he goes on to point out that the human species would increase, with a sufficiency of food, in the ratio of the numbers 1, 2, 4, 8, 16, 32, and so on.

THE LORD CHIEF JUSTICE: In other words, geometrically.

MRS. BESANT: Yes; in the geometrical ratio, my lord.

THE LORD CHIEF JUSTICE: Whereas the food increased in arithmetical proportion.

MRS. BESANT: That is just how he puts it; I was putting it in figures, lest the technical terms should not so well

convey the idea. Then that is Malthus' "Law of Population," published by him, as I put to you, in 1798. Since that time, gentlemen, a very large number of books have been written, all bearing on this subject, and, almost without exception, the books of the leading political economists follow the theory propounded and laid down by Mr. Malthus. You may remember that Miss Martineau said that it would be as absurd to try to upset the law of population as to upset the law of arithmetic. That is putting it very plainly.. But it just shows you the view that thinkers take on the subject. I do not mean to give all the quotations I might to back up Malthus, or many except on special points, but I may say that both John Stuart Mill and his father, Professor Cairnes, Professor Fawcett, Mrs. Fawcett, Professor Bain, and many others, whose works, at the present time, are the text-books for the instruction of young men at the Universities of Oxford and of Cambridge, as well as at other universities, that all those do agree, without exception, in the law laid down by Malthus ; that they all, without exception, acknowledge his division as to positive and preventive checks, which I shall have to deal with to-morrow, and all, without exception, do say that unless you can find some way of limiting the population of the world by preventive checks, you must be content to remain with those old barbarous means, which the Solicitor-General said were the provisions made by God and nature for our benefit : those provisions are — war, famine, disease, misery, starvation, overcrowding, preventible disease, infanticide, baby-farming, and all other horrors of our civilization : those are the means which the Solicitor-General says God and providence give us in order to prevent the over-increase of our population. Gentlemen, when the Solicitor-General said that, I remembered the same expression being used, now almost one hundred years ago, when, in the House of Lords, it was ventured to be put forward that the use of the Red Indians to scalp our American brethren was a means that God and nature had put into our hands to crush the powers of rebellion, and I remembered the fiery indignation of Lord Chatham, who, whatever may have been his faults, at least remembered England's honour in dealing with this point, and he said—"God and nature ! I have yet to learn, my lords, that these sacred names are to be employed in fashion such as that !" and when I heard the Solicitor-General, when telling you of nature and providence, as

He put it, when he spoke of the miseries I have seen in our cities as one of the means God and nature have employed to destroy children brought into the world, children often born from drunken parents, in misery, in wretchedness and filth, which, gentlemen, your circumstances have happily removed you from; when I heard those things put down as a provision of God and nature, I trusted that, at least with you, terms used in cant fashion such as that would not have more influence than when used in that other fashion in the House of Lords in the last century. That, you will find is the law, and now what is the application which the learned judge suggested when I was speaking? Twenty-five years was the time within which Mr. Malthus said population doubled itself unless checked by misery, and war, and starvation. Refer, gentlemen, to the Northern States of America, and you find there, as a matter of fact, put forward here by Mr. Malthus and since then endorsed in America by Professor Draper—whose works are probably familiar to all of you—that in the Northern States of America, “where the means of subsistence have been more ample, the manners of the people more pure, and the checks to early marriages fewer than in any of the other modern States of America and Europe, the population has been found to double itself, within the last century and a half, in less than twenty-five years.” That was written in 1798; during the time that has passed since then, you will find, gentlemen, if you consult the census returns of the United States, that the population has doubled itself in every twenty-five years, and in some of the States—if I may take the evidence of Professor Draper as thoroughly reliable on that point—in some of the States, he says, it has doubled itself in twelve years, instead of in fifty.

The LORD CHIEF JUSTICE: Is that including the results of emigration?

Mr. BRADLAUGH: That is excluding the emigration returns.

The LORD CHIEF JUSTICE: Is that so?

Mr. BRADLAUGH: Yes.

The LORD CHIEF JUSTICE: It is very astonishing!

Mr. BRADLAUGH: It is very astonishing, but it is the result, after carefully excluding the emigration returns.

Mrs. BESANT: One may weary you with it, my lord, but so many of these things are not known generally, that you will pardon me if I put them to the jury, so that they may

see how we, who have studied this matter, put the question, and why we think it so vital a question, when dealing with it before you. The population does not increase, as my lord fairly pointed out, at this rate in this and other countries. Why not? "Population," says Malthus, "is necessarily limited by the means of subsistence. Population invariably increases where the means of subsistence increase, unless prevented by some very powerful and obvious checks. These checks, and the checks which repress the superior power of population, and keep its effects on a level with the means of subsistence, are all resolvable into moral restraint, vice, and misery." I shall put it to you, gentlemen, that you must have some checks, that the only choice you have got is, not whether there shall be checks, but what the checks shall be. You have got that choice, if you agree with the Solicitor-General. You may think the means of nature (for I won't bring the other name into a contention such as this)—you may think the means of nature are those you prefer, and then I put it to you, if so, that you go back to the old savage times where you get those checks in their full swing. You do get them there, gentlemen. If you want to go back, you must decide for these checks. I will now lay before you the division of checks made by Malthus, and it is with that division, I almost think (with my lord's permission), that I shall finish my speech of this afternoon, simply because, my lord, it makes a clear division of sense which it will be valuable to me to keep.

Those checks are divided into what are called "positive" checks, and what are called "preventive" checks. Positive checks for a moment I will call "natural" checks, following out the line of thought which the learned Solicitor-General kindly draws for my guidance, but they are "natural" only in the sense of being general throughout Nature; that is to say, it is the death-producing check which is the positive check, the check that produces death. You find it in the vegetable kingdom; you find it in the animal kingdom; the trees produce a number of seeds more than can ever grow into plants, animals produce far more young than ever can grow into maturity. If any of you have taken an interest in natural history, you will have seen there (and even without that you must know it from the common everyday matters of life), that the death producing check is the one check that acts throughout nature of all the young brought into the world, not one tithe survives to grow up into maturity; but that check is only a natural check in the

sense that nature is opposed to art, to science, or to men's reason. It is only natural, when you exclude man from nature and treat nature as simply brutal animal instincts and passions, and nothing more. The moment you admit man's reason into nature, that death-producing check is no longer a natural check, because man's reason is given him by nature, in order that by being thrown into the mass of a number of mute laws he may learn to balance law against law, and in doing that may use his reason to bring him out of the terrible crushing wheel of nature, that breaks down the lower organisms that have not our brain. I plead for preventive check. Preventive check means that man's brain is used—preventive check means birth-restricting check as opposed to death-producing check ; and I hold, in the words of our preface, gentlemen, that it is more moral to prevent the birth of children than it is after they are born to murder them as you do to-day by want of food, and air, and clothing, and sustenance. Gentlemen, I call it a birth-restricting check—an artificial check if you will, because all comfort and all civilization are artificial. It is the natural way, as the Solicitor-General put it (although not delicately, perhaps), for a man to go about naked ; though that is not respectable, that is the natural way of doing things. We, however, prefer the artificial fashion, which has the decency of clothing, instead of that which the Solicitor-General put, and I plead for what is called the artificial check—the preventive check ; and I say that man's reason is given him by nature in order that he may, by his reason and by his intellect, prevent that suffering which results from the laws of nature, if you take nature without man. That, gentlemen, is what I shall plead for to-morrow. I have brought you down now partly through our pamphlet, with our reasons for doing it. I have put to you as plainly as I can the meaning of the word obscene, which will govern your verdict ; I have pleaded that our intent is good, and that the purpose at which we aim is good, because it conduces to human and to social happiness. I have shown you from Malthus—and he has never yet been disproved—what the law of population is. I have shown that some checks must prevail, either positive or preventive, and to-morrow I will deal with these.

SECOND DAY.

THE Court sat again, exactly at 10.30, and on taking his seat the Lord Chief-Justice intimated that he had received a letter from a gentleman who did not append his signature, complaining of the want of ventilation in the court, and requesting that more windows might be opened. He should certainly most willingly have granted the request, only that there were no more windows to open.

Mrs. BESANT, resuming her address, said : My lord, gentlemen of the jury : You will remember that when the Court rose, yesterday afternoon, I had just brought my argument down to the necessary checks on population which, following the rule laid down by Malthus, I had divided into two classes—one class being those positive, which I characterised as death-producing checks, which the learned Solicitor-General named as being that with which Nature and Providence had interposed, and the other those preventive, prudential, or birth-restricting checks, of which I am here the advocate. I propose, this morning, to take up my argument exactly where I laid it down, for it is very important for me in this trial that I should build up, step by step, the arguments which I desire to lay before you, and by which I hope to overthrow the contention of the learned Solicitor-General, that the whole of the philosophy of this book is only a cloak put to cover the body of a vicious and demoralising intent. I laid the foundation of the argument yesterday, and I shall proceed to take it step by step to-day, and while I shall do my best to compress my arguments so far as I can, I am quite sure that I may ask from your sense of justice, and from your patience, the full consideration which will be necessary, if I am to put before you the contention which I raise. I feel slightly encouraged to-day, in trespassing on your time, from the fact that even this morning we have had the pleasure of receiving a letter from Professor Bain, a man who will be known to all of you, a man who is known wherever thought has spread, in which he says, that he regards this trial “as one of the most critical trials in the history of our liberties.” If that be true, or if it is possible that it can

be true, you will not think I am unduly trespassing on your time if I leave no argument untouched which may avail to move you at a crisis so important. It is the positive checks with which I have to deal first. Malthus puts it that the ultimate check on population appears to be "want of food arising necessarily from the different ratios according to which population and food increase." You will remember that the learned judge pointed out that population increased in a geometrical ratio, while the means of supporting the population only increased in an arithmetical ratio. "The immediate check," says Malthus, "may be said to consist in all those customs and all those diseases which seem to be generated by a scarcity of the means of subsistence, and all those causes independent of this scarcity, whether of a moral or a physical nature, which tend prematurely to weaken and to destroy the human race." These are the checks of which, for the purpose of his argument, the learned Solicitor-General thought it right to speak in words of praise. These checks are found to apply most rigorously in savage nations, the tendency of civilisation being, instead of leaving the rough natural checks and other injuries to operate, to bring the means of neutralising the effect of natural laws. It is to savage nations, then, that we first turn. You get as a check on population, war, that in savage nations mows down so many of the strongest of the tribe, and, by destroying men in the prime of their life, acts, to a very great and wide extent, as a check on population. You get also the hardship of the daily life killing off the sickly and the young—a check that Malthus characterises in the very strongest terms, pointing out, as he goes through his great work, that, amongst some savage nations, a large proportion of children die because their baby frames are unable to support the hardships of their life. You have the difficulty of subsistence and of getting food, on which Darwin lays special stress as being a universal check; in his great work on the "Origin of Species," p. 61, he remarks that "of the many individuals of any species which are periodically born, but a small number can survive," and on p. 63, he says: "A struggle for existence inevitably follows, from the high rate at which all organic beings tend to increase. Every living being which, during its natural lifetime, produces eggs or seeds, must suffer destruction during some period of its life, and during some season or occasional year; otherwise, on the principle of geometrical increase, its numbers would quickly

become so inordinately great that no country could support the product. Hence, as more individuals are produced than can possibly survive, there must, in every case, be a struggle for existence, either one individual with another of the same species, or with individuals of distinct species, or with the physical conditions of life. It is the doctrine of Malthus applied with manifold force to the whole animal and vegetable kingdoms, for in this case there can be no artificial increase of food, no prudential restraint from marriage. . . . There is no exception to the rule, and every organic being naturally increases at so high a rate that, if not destroyed, the earth would soon be covered by the progeny of a single pair. Even slow-breeding man has doubled in twenty-five years, and, at this rate, in a few thousand years, there would literally not be standing room for his progeny." He further goes on to point out that people do not recognise "this fact as thoroughly as they ought to do, owing to the fact that among the larger domestic animals we see no great destruction falling on them, and we forget that thousands are annually slaughtered for food, and that in a state of nature an equal number would have somehow to be disposed of." You get another check on population, operating in savage nations, and I shall have to put it to you as largely prevailing amongst ourselves. Amongst savage nations you get infanticide openly practised to a large extent. In the ruder tribes of America it is practised by many mothers, who do not wish to burden themselves by rearing more than two out of their offspring. If a mother endeavours to rear the whole of her children, a large proportion inevitably perishes under the rigorous treatment which must be their lot in a savage state, where, probably, none of those who laboured under any original weakness or infirmity could possibly attain the age of manhood. If they do not get cut off as soon as they are born they cannot long preserve their lives under the severe discipline that awaits them. You get another check in the murder of the aged, for the moment they cease to become productive, and can no longer make food for the tribe, their lives are put an end to. You get the whole thing well summed up in Malthus, who urges that all the checks you find in the savage state may be summed up in misery. He speaks of "the frequent wars of these savages with different tribes and their perpetual contests with each other; their strange spirit of retaliation and revenge, which prompts the midnight murder and

the frequent shedding of innocent blood ; the smoke and filth of their miserable habitations, and their poor mode of living, productive of loathsome cutaneous disorders ; and, above all, a dreadful epidemic like the small-pox, which sweeps off great numbers " (p. 17). It is thus that Malthus sums up those checks on the increase of mankind which prevail amongst savage nations, and what I want you to bear in mind, gentlemen, if you will kindly do so right through, is that we have got to deal with phases of these checks amongst ourselves, and it is to you that the poor of this country are now looking, hoping that you will say that, instead of these checks that mean misery and vice, you will give them the chance of ascientific check, which means happiness and comfort for the home. Looking through history, all the great periodical famines that kept down the European population may be traced back to this same species of check. All the great incursions of the Northmen and of the Goths were simply produced by the want of the means of subsistence, and, overcrowded in their own land, these strong and vigorous races they overflowed into more fertile lands that they might find them there. These are the only answers that savage nations have found to the great population' question—simply starvation, war, famine, and disease ; these are the checks which have prevented savage nations from increasing as rapidly as they would have done otherwise. Now, we come to a slightly more advanced state of civilisation, and since I do not want to follow Malthus in his great work from country to country, because to do that would make my speech last nearer a week than the day to which I hope to confine it, I will take one single instance, that of China, which may be considered as a representative country, where the population difficulty is bringing now tremendous social and political difficulties that have already touched America, and have touched our own colonies in Australia, and that may touch England as well, unless we can find some better solution than is at present afforded. China, as you know, is a country that may almost be said for thousands of years to have been growing into such an instance as I want to lay before you. They were against emigration, were shut up within their own circle, and, in addition to that, their creed gave them special encouragement to marry, to marry at a very early age, and to bring into the world as many human beings as

possible. We find in the "Statesman's Year Book" that the population of China in the year 1877 is reckoned at 405,213,134.

THE LORD CHIEF JUSTICE: For what year?

Mrs. BESANT: The present year, my lord.

THE LORD CHIEF JUSTICE: Is it the present population?

Mr. BRADLAUGH: It is an estimate; hardly an official census.

THE LORD CHIEF JUSTICE: It refers to the present population?

Mrs. BESANT: It does; and it is taken upon estimates based upon the Chinese official returns. The "Statesman's Year Book" goes on to point out that the above population, giving 263 souls per square mile, appears to be excessive, considering that some of the outlying portions are by no means densely inhabited. It goes on to say that the census taken in 1842, which would be rather before the enormous amount of emigration, showed a population of 419 millions, and in 1852 it was 450 millions, that increase being enormously rapid, while it has, during the last few years, been somewhat checked by the very large emigration which has had most lamentable results. The result in China, as laid down by Malthus, has been most unfortunate, for he points out that, "notwithstanding the great sobriety and industry of the inhabitants of China, the prodigious number of them occasions a great deal of misery. There are some so poor that being unable to supply their children with common necessities they expose them in the streets," and that, gentlemen, is a resource which you know is unfortunately not confined to the inhabitants of countries like China. We are told that the country, "extensive and fertile as it is, is not sufficient to support its inhabitants," and that "four times as much territory would be necessary to place them at their ease," and he points out that that wretchedness has been the consequence of the over rapid increase. You get in China, as another result of this population question, an enormous amount of infanticide, chiefly amongst female children—because the males being more productive the female children are those who suffer most—and you find, as a consequence of this, that terrible prevalence of unnatural crimes right through China,—crimes so shocking in their character that I will not even mention them in this Court. You find in America, where these Chinese have spread, carrying with them those unnatural crimes which always result from

a thwarting of nature—you find in America continual complaints of the Chinese servants, who are beginning to overrun the land, so that it is impossible to put children into the care of Chinese men because of the terrible habits that they have brought with them from their over-populated county. The very reason of our last war in China recalls us to another branch of the great question that we are discussing to day. We went to war on the question of the opium traffic. Opium is simply taken there in order to buy escape from the terrible sexual difficulty which arises from the fact that the number of men far exceeds the number of women in that unfortunate land; for taking opium does at first give rise to some of the feelings which should be only naturally aroused, and then later it entirely destroys the sexual instinct; that is one of the answers that China has given to this question in her utter ignorance. In Australia, our government there sent home to complain that the proportion of women amongst the immigrant Chinese was utterly inadequate to sexual needs, for only four or or five women went over, amongst literally cart-loads of men. Sixteen women, my co-defendant tells me, to some 15,000 men, was the proportion that one table shewed, as having emigrated from China. Your experience is sufficient to tell you the terrible amount of crime and disease to which such a state of things must necessarily give rise. Leaving then that part of the question, because your own reading must have made you familiar with so many of these questions that I need not trouble you more with them here—I will come to those checks on population in Europe, which, as my lord pointed out, seemed to neutralise, to some extent, the conclusions of Malthus. You find, in Europe, that these positive checks have been so extremely marked, so curiously and strongly marked, that right through the 1000 years that are taken as the Middle Ages, the population of Europe had not even doubled. During the whole of that long period some tremendous checks must then have been in operation in order to keep down the natural fertility of the human species. Later, the increase has been very rapid, and it is only reasonable, therefore, to try to find out what has caused the change between the stationary state of things for 1000 years, and later, the very rapid increase. The rapid increase has simply been due, generally, to the fact that civilization has removed many of those checks which, in

the more barbarous time of the Middle Ages kept down the population of this Continent. Now, instead of the sickly being left to die without treatment, they are cured by the advance of sanitary science, and we now take more care to prevent disease, as well as possess more skill in curing it. These are the reasons why you find the population to-day increasing so rapidly, and it becomes a practical question for us to grapple with the ever-growing danger. And not only is it the tendency of civilisation to reduce all those checks that are called death-producing checks or positive checks by Malthus, but you have the tendency to reduce these ever more and more rapidly. War is beginning, although very slowly, to be replaced by arbitration, and although that has not yet been thoroughly carried out, we may hope that, as nations become wiser and more civilised, we shall have fewer wars and more frequent resorts to arbitration and to legal and reasonable remedies. One may hope also that we shall be able to cure disease more extensively the more doctors discover of the secrets of nature; and as many diseases are preventible, we may look forward to the time when the returns of the Registrar-General will show more deaths from old age than from any other cause. You thus come to the point put by Knowlton on page 4, "that some check there must be, or the time will come when millions will be born but to suffer and to perish for want of the necessaries of life." The advantages of civilisation are to some extent neutralised by the terrible idea that the more civilised we become the more we remove the natural checks, and, therefore, the more quickly approaches the period of actual general privation: the sick, instead of being left to die, are cured by medical skill; hospitals are built, wherein they are sheltered, and not only is it that the sickly do not die, but they survive and marry, and so pass on the inheritance of their own feebleness to the children who proceed from such marriages. The aged in the Middle Ages died far more rapidly than they do now; now their life is lengthened by the care, nourishment, and comfort which they enjoy. Then, such plagues as that which visited Florence, and the great plague of London, in the reign of Charles the Second, have now become almost impossible, owing to our improved sanitary arrangements. Since these checks are now so much diminished by science, it is necessary to bring in some scientific checks to take their place. Nature, left to herself, balances herself; but if we interfere with nature by curing the sickly

whom she is killing, and preserving the life which she has doomed, it becomes necessary to substitute scientific for natural checks—for you must not interfere on one side without interfering on the other; the increase of science otherwise means only the increase of human misery. It may be said that the result is a long way off, and that it is not worth while to trouble ourselves with what will only affect the century that follows us. Is this so? You find that a gentleman called Mr. Montague Cookson, who is well known in this court, and who would not be inclined to frighten people for the purpose of causing an effect, says, in an article which appeared in the *Fortnightly Review* of October, 1872: “But, without being extravagant, we may, nay must, go further. If there were no counteracting causes, sooner or later the time would come when this little island would be overstocked to such a degree that the great bulk of the inhabitants would be unable to procure the bare necessities of life, and ultimately this would be the case, not only in England, but in all the countries of the globe. However unpalatable the truth, it is useless to disguise the fact that the sources of food are limited, whereas, but for war and disease, which many people”—(Mr. Cookson says, here anticipating the Solicitor-General)—“openly treat as special interferences in man’s favour, the augmentation of human beings would be unlimited. Emigration somewhat interposes; but emigration is only effectual so far as it aids equal distribution, and is, therefore, but a temporary method of dealing with the difficulty which will have to be disposed of at no distant day, on a more gigantic scale.” That is the argument put forward by Mr. Cookson in an article in which he is dealing with the very subject under discussion here. It is entitled “The Morality of Married Life,” and I shall refer to it several times, in order to show that if you give a verdict of guilty against us you must remember that you are not only branding us but half of the leading writers in England, every one of whom has substantially taken our side on this great question. What, then, are the checks in England? In 1821 the population of England was 12,000,236, and you find that fifty years later—in 1871—it was 22,712,266. When you think, gentlemen, how, during that time, the cost of food and living has risen, I think you will say with me that this population question is not a question for the future, for if we have nearly doubled our numbers in fifty years, in spite of those lamentable checks

to which in a moment I shall have to draw your attention, what will be the rate of increase during the next fifty years—the time that our children will have this country—unless some greater thought can be brought to bear upon it? You know from your own experience how rapidly food is rising at the present day. During the last ten or twelve years, those things which are regarded as most necessary to human life have increased in the most rapid proportion. Bread, meat, and milk, all most necessary things for men, women, and children, have gone up in price. These are things known to every housekeeper—and this is a point where a woman may speak with almost more knowledge than a man would be expected to possess, seeing that though men have to pay the bills generally the women have to buy the necessaries,—and, therefore, the question is a personal one to ourselves. I find that Professor Fawcett, in his essay on “Pauperism, its Causes and Remedies,” published by Macmillan and Co. in 1871—I may say, my lord, that we are prepared to prove the publication of every book we use in this way—Professor Fawcett puts it very strongly and clearly. He says that the “population of England and Wales in 1810 was about 10,000,000, and 50 years later, in 1860, it had grown to 20,000,000. At the present time it is growing at the rate of 200,000 every year, which is almost equivalent to the population of the county of Northampton. If in 50 years the descendants of one million become two millions, it is obvious that in 100 years the two millions will have become four millions, so that if the population of England were eight millions in 1810 it would be 80 millions in 1960.” So he goes on to point out that if 22,500,000 now find it difficult to obtain sufficient food, what would it be if there were 40 millions to be maintained! This will be our population in 40 years if the rate of increase which has prevailed since the beginning of the century continues. “At the present time it is said that there is a great redundancy of labour. Many who are willing to work cannot find employment; in most of our important branches of industry there has been great over-production; every trade and every profession is over-crowded; for every vacant clerkship there are hundreds of applications. Difficult as it is for men to obtain a livelihood, it is ten times more difficult for women to do so; partly on account of unjust laws, and partly because of the tyranny of society, they are shut out from

many employments. All that has just been stated is admitted by common consent—it is the topic of daily conversation, and of daily complaint—and yet with the utmost complacency we observe 200,000 added to our population every year, and we often congratulate ourselves upon this addition to our numbers, as if it were an unerring sign of advancing prosperity. But viewed in relation to the facts just mentioned, what does this addition to our numbers indicate? To this question only one reply can be given—that in ten years' time, where there are a hundred now seeking employment, there will then be a hundred and twenty. This will not apply simply to one industry, but will be the case throughout the whole country. It will also further happen that in ten years' time, for every hundred who now require food, fuel, and clothing, a similar provision will have to be made for a hundred and twenty. It therefore follows that, low as the general average standard of living now is, it cannot by any means be maintained, unless in ten years' time the supply of all the commodities of ordinary consumption can be increased by 20 per cent., without their becoming more costly.”

Gentlemen, if I may trouble you to look at it from that point of view, you will understand how grave is the feeling with which we argue for this pamphlet—not because we want this pamphlet carried on—not because we attach special value to this one pamphlet—but because a verdict of guilty against this pamphlet means that it will not be safe for medical men, or for political economists, to discuss the question of population at all; and we feel that unless the question of population may be discussed, you will come, in ten or twenty years, to an amount of suffering of which we can scarcely realise the extent. Professor Fawcett quotes Ireland as showing the effect of overcrowding on population—and when we are dealing with Ireland you must admit that you are dealing with a land at our very doors, and in whose prosperity we are deeply interested. Professor Fawcett says, “Ireland should serve to warn us of the terrible misfortunes brought upon a country by an undue increase of population. At the beginning of the eighteenth century, the population of that country was about two millions: maintaining for the next 150 years a smaller rate of increase than is now going on in England, the two millions had grown into eight millions in the year 1847. The country, at this time, became so densely peopled that a considerable portion of the nation could only obtain the barest subsistence; still, nothing was

done to avert the suffering that was certain to ensue ; the people went on marrying with as much recklessness as if they were the first settlers in a new country possessing a boundless area of fertile land. All the influence that could be exerted by religion prompted the continuance of habits of utter improvidence ; the priests and other ministers of religion encouraged early marriages. At length there came one of those unpropitious seasons which are certain occasionally to recur : the potato, the staple food of the people, was diseased, and it was soon found that there were more people in the country than could be fed." And then he comes to a description of the terrible Irish famine, which was only really put an end to by the enormous emigration from Ireland which carried off the surplus population. I put this to you : what is there to prevent that happening in England which has happened in Ireland? We are following the Irish plan, we are increasing the population with more rapidity than we are increasing the food supply. What right have we to think that we shall escape the terrible sufferings of Ireland, if we go on ignoring with Irish recklessness questions like that for which I am pleading to-day? But the justification of this pamphlet lies in the checks that are operating round us on every side. I have put it to you that there must be some checks in operation, because we are not increasing at the natural rate. Malthus puts it that every check on population may be put down as referable either to moral restraint, to misery, or to vice. Moral restraint being unfashionable in this country, and it being dangerous to venture to treat the subject at all, as my presence here to-day shows you, we are driven back to accept those checks of poverty and vice which Malthus says are the only checks except moral restraint that can be brought to bear. The justification of this pamphlet is, therefore, the nature of the checks that are operating on every side. First, I shall put the overcrowding in towns which you, gentlemen, from your happier circumstances, may not have seen much of, but which I, who have gone much among the poor, know from personal experience. When the time comes to bring evidence before the Court, I shall call one or two clergymen of the Church of England, who will bear witness to the terrible nature of the evils against which we speak. The Rev. Mr. Horsley, late of St. Michael's, Shoreditch, and now chaplain of the House of Detention at Clerkenwell, will tell you that I am not in any way exaggerating the extent of this

check, and he will speak from his own personal knowledge. I also propose to call the Rev. Stewart Headlam, now of the parish of Bethnal Green, who from his own knowledge and experience will tell you the nature of these checks on population. He will also give you some idea of the extent to which it has a terribly demoralising effect on the young of both sexes, who are necessarily subject to it. Personal witnesses will perhaps be more effective than any books I could read. When you are dealing with a scientific subject, it has always been ruled that scientific evidence may be adduced, not as giving an opinion on the special subject at issue, but simply as a doctor may bear witness to a certain fact as having come within his own personal knowledge. In the proceedings of the National Association for the Promotion of Social Science, there is an essay read by George Godwin, F.R.S., pressing this question of population very strongly. He states that he himself traced it out in one of the poorest districts of the metropolis. Mr. Godwin says : "Evidences of overcrowding turn up from time to time where they are not looked for. It was but the other day that a child was found dead in Brownlow Street, and, on inquiry, it was learnt that the mother, a widow, and six children slept in one bed in a small room. The death of the child was attributed to the bed clothes. In such an atmosphere as a room so occupied must have, the vital power necessarily becomes weak, and to kill is easy. In a house of respectable appearance outside I found a hole under the stairs made the sleeping place for three persons, twenty-one, seventeen, and fourteen years of age. It was intended originally for the reception of coals ; it is not more than four feet deep, and the height, of course, diminishes to nothing, as the steps descend. When the door is closed there are only seven small gimlet holes in the stairs for ventilation. Is it surprising that fevers break out under such circumstances? One is struck, sometimes, with the strange contrivances resorted to to meet the difficulty of want of room. Thus, in a model lodging-house for families, a father, who with his wife and one child occupies one room, has accommodated six of his nine other children cross-way on two camp bedsteads, while three elder girls, one sixteen years old, sleep on a small bedstead near. The room is well ventilated and clean, but the same sort of stowing away is to be found in hundreds of cases, under circumstances which render it deadly. In another

room in the same building, a wooden shelf has been contrived, which can be pushed under the bed during the day, and drawn out at night to accommodate a pile of children. In a respectable house, not far from the last, occupied by steady artisans and others, I found that nine persons slept in one of the rooms (12 feet by 14 feet)—a father, mother and seven children; eleven shoemakers worked in the attics; and in each of the other five rooms there was a separate family. I could quote scores of cases of overcrowding, in what would seem to be decent houses, but the repetition might tire. No words, even aided by the pencil, can give a full idea of some of the dens which are occupied by a lower and different class; many born to evil and without the power to rise; others the victims of more recent misfortunes or their own conduct. The world has still an interest in improving their condition: children, as yet innocent, cry aloud to be rescued from the otherwise inevitable gulf. In some places, in the eastern districts, quite recently visited, I have found ten, eleven, and in more cases than one, fourteen persons occupying a single room." These are some of the facts which being known to my co-defendant and myself have made us feel it a duty which no personal considerations can make us shrink from, to publish for sixpence that information which might be utilized to prevent continuance of such misery—information which wealthier women can obtain in higher-priced publications. When it comes to a question of immorality, you get far more immorality by crowding five or six boys and girls together than you can get from giving them dry physiological knowledge, such as is given in the pages of Knowlton. Mr. Godwin gives a number of cases, of which I take one more, the description of a house in Bemerton Street, Caledonian Road: "The basement below the level of the street contains, in the front room, an old man and his wife; in the back room, two lodgers; in the parlours, there are a man and his wife and eight children; on the first floor a man and his wife and infant, two girls 16 and 18 years of age, and occasionally their mother, all in the front room; and in the small back room, two women, a girl, and two young children. On the second floor, a father, mother, two young grown-up sons, an infant, and a brood of rabbits. Two women and two boys in the back room make the whole population of the house thirty-four. In the next house there were thirty-three

persons similarly divided." These are things which will be explanatory to many of you gentlemen, who may wonder what motive we could have for bringing forward such a question as this, for it will show you how the overgrowth of population affects the poor. Dr. Lankester, who, as coroner for Middlesex, is surely some authority, says that, "In the parish of St. James, which is not one of the poorest districts in the metropolis, there are 10,000 persons who, for the sake of their health, ought to be removed from the parish." That is not the amount of the whole population, but the amount of the surplus population, whom Dr. Lankester states should be removed from the parish if that parish is to be put into a healthy condition. You find him urging that over and over again. At a vestry meeting of Marylebone, Dr. Bach, medical officer, said the horrible state of some of the places could scarcely be described; "human beings were there living in such a state of squalid misery that a horse that was kept in the worst possible stable was better provided for. There were 19 houses in which were 89 families, comprising 300 persons. There was one room eight feet square, with a small opening for a window, but no glass, and a man, his wife, and five children lived in it, and there had been seven children." I find that Mr. W. Rendle, who is thoroughly acquainted with this subject, when speaking to an audience of doctors at a meeting of the British Association, said that, though there was this overcrowding in the face of a steadily-increasing population, no real attempts were being made, to any appreciable extent, to prevent it; and he dilated upon the consequent evils: "Overcrowding, the mixing of the sexes, and the results—incest, bastardy, filthy and degrading habits, and, as a consequence rather than a cause, a degraded home, drunkenness, and generally an absence of religion and morality in any true sense." This is the testimony of one who had seen what he speaks of. It is these terrible evils that we are striving to grapple with in some fashion; and if you think our view a mistaken one, and that we are blundering in the remedy we propose, you must say that we are grappling with an evil the gravity of which you cannot overestimate; and, therefore, if we err, it is from want of knowledge, and not from evil will. If this effort of ours is to be met, it is not by the brutal method of repression. The proper way of meeting mistake is argument, and the proper way of meeting error is to bring truth to oppose it. If Dr. Knowlton

is wrong in his checks, let some one who is competent to do it write a pamphlet pointing out his objections, but do not bring us in as criminals when we are trying to grapple with a terrible amount of immorality in our capital. You find this immorality quite as prevalent in the agricultural districts as in the towns. I am now going to quote from a report of the evidence which came before the "Royal Commission on the Employment of Women, Young Persons, and Children in Agriculture," published in 1868. I shall quote the evidence of one gentleman, the Rev. J. Fraser, now so worthily elevated to the see of Manchester, and who has made himself remarkable as a bishop by his intense sympathy with the poor. I am willing to base my case here purely on the report, and I shall not weary you by unnecessary comments. I find that in this report Dr. Fraser, dealing with this very question of overcrowding, puts the case in a terribly strong fashion:—"It is impossible to exaggerate the ill effects of such a state of things in every respect—physical, social, economical, moral, intellectual. Physically, a ruinous, ill-drained cottage, 'cribb'd, cabin'd, confined,' and overcrowded, generates any amount of disease—fevers of every type, catarrh, rheumatism—as well as intensifies to the utmost that tendency to scrofula and phthisis which, from their frequent intermarriages and their low diet, abounds so largely among the poor. Socially, nothing can be more wretched than the condition of 'open' parishes, like Docking, in Norfolk, and South Cerney, in Gloucestershire, into which have been poured remorselessly the scum and off-scouring of their 'close' neighbours. Economically, the imperfect distribution of cottages deprives the farmer of a large proportion of his effective labour power. The employer who has no cottages to offer those whom he employs must either attract labourers by the offer of higher wages or must content himself with refuse; and in either case, when he gets his man gets him more or less enfeebled by the distance he has had to travel to his work. The moral consequences are fearful to contemplate. 'I only wonder,' writes one clergyman to me, 'that our agricultural poor are as moral as they are.' Modesty must be an unknown virtue, decency an unimaginable thing, where, in one small chamber, with the beds lying as thickly as they can be packed, father, mother, young men, lads, grown and growing up girls—two and sometimes three generations—are herded promiscuously; where every operation of the toilette, and of

nature—dressings, undressings, births, deaths—is performed by each within the sight or hearing of all ; where children of both sexes, to as high an age as twelve or fourteen, or even more, occupy the same bed ; where the whole atmosphere is sensual, and human nature is degraded into something below the level of the swine. It is a hideous picture ; and the picture is drawn from life. Mr. Clarke, of Norwich, can tell any one who will ask him tales of things that he has himself seen, horrifying enough to make the very hair stand on end. The medical gentleman, whose evidence I publish, assures me that cases of incest are anything but uncommon. We complain of the ante-nuptial unchastity of our women, of the loose talk and conduct of the girls who work in the fields, of the light way in which maidens part with their honour, and how seldom either a parent's or a brother's blood boils with shame—*here*, in cottage herding, is the sufficient account and history of it all." It is, indeed, a fearful picture, but it is one drawn from the life by the Bishop of Manchester, whom you cannot imagine is making a sensational tale for the purpose of attracting popularity. I have myself seen four generations of human beings crowded together into one small room, simply divided into two or three beds, and I will ask you if, after such an experience as that, you wonder that I risk even prison and fine if I can bring some salvation to those poor whose misery I have seen. I will not trouble you to read an extract from proceedings before the Truro magistrates, concerning a man named Tonkin, with nine little ones, seven of whose children were found huddled up in one corner, while the rest were lying about the floor without bedding. He was told that he must clear out ; he did not want to go to the workhouse, but he was told that "the nuisance must be abated," and he had to go. There are so many of these Tonkins, but they only come to the top when the crimes that flow from their habits of life shock the public ear. These crimes are the natural results of the way they live ; and if we took our own children, gentlemen, and herded them among the filthy associations of these poor people, could we expect from them in their manhood and their womanhood that purity and refinement which we pride ourselves on making possible for them ? There is one additional evil, and that is the large amount of illegitimacy which overcrowding gives rise to in country parishes. It is no doubt a fact that among illegitimate children you get a far higher death-rate, the

reasons for which are so obvious that I need not dwell upon them. At Sheffield, the proportion of deaths of illegitimate children is just now 305 per 1000 in the first year. I think, my lord, that is a check on population of a most terrible character, and the report of the registrar of Sheffield has been copied into the papers as showing the terrible way in which that check has affected the increase of the population. Leaving the question of overcrowding, there is the question of insufficiency of food, and of its unwholesome character. I put it to you that this is caused by the fact that many a man does not earn sufficient wages to maintain the number of children he brings into the world. It was said when the Corn Laws were repealed that the effect of that measure would be an enormous reduction in the price of bread, which would enable the poor to live in comfort. Starvation then got so far in England that it was common in the agricultural districts to get up riots against the farmers because the people, in the misery of their starvation, imagined that the farmers hoarded up the corn, and so kept up the price of bread. There is no question that if books of this character had been circulated then, you would not have had that sudden increase of the population which was one of the most remarkable effects of the repeal of the Corn Laws. In the Registrar-General's returns you find that, in consequence of the high rates of wages, marriages are more frequent in certain districts. It is an unfortunate thing that wherever you get more food you find this reckless, improvident fashion of never pausing to think whether the increase of to-day may not be followed by a decrease to-morrow, and that, if so, the food will be insufficient for the little ones to be brought into the world, for the food which would be sufficient for a small family is quite insufficient for a large one. We hear much talk about the physical deterioration of Englishmen; we hear much talk about the artisan of Sheffield or of Manchester not being the same strong, healthy man that his grandfather was, and the reason is not far to seek. When his grandfather was born the population of England was about half what it is at the present time, so that the man of to-day has less room to live in, less food, less clothing, less possibility of health, and that will (grow and is growing) worse year by year unless some scientific thought may be brought to bear upon this great question. I need not repeat that all these are the checks which the Solicitor-General

said were afforded by nature and providence. Another of the natural checks is the terrible drunkenness prevailing among a large number of our poor. It is oftentimes the result of want of food, simply because with so little money they seem to think they can get temporary oblivion with a small amount of drink, while they cannot get enough wholesome food to stop the craving which nature gives. All these causes operate in a double fashion, causing premature death among the adults, and acting in an even more terrible fashion upon the unhealthy children who are born of drunken and dissolute parents, amidst such awful associations, growing up feeble, blood-poisoned, and only half human in many ways. It has often been remarked that when you get to the lowest grade of the criminal class you observe a kind of marked type. This is because the lives of their parents have so unhumanized them, that the children born of such parents are literally a lower race than those of parents whose happier circumstances have raised them above that condition. If you want to know how these checks operate there, again, I think I shall be able to call before you clear medical evidence. For instance, we find Dr. Drysdale, whom we shall, by and bye, put into the box, who will tell you, I have no doubt, how these checks operate, and the reflex results which arise from over-crowding, with the consequent and continual advance of death-rate among the children of the rich as well as among the children of the poor. I say among the rich as well as among the poor, though among the poor the death rate is three times as heavy as among the rich. If you go to Islington you find a million of children, all under five years of age, and among them the death rate is 66.9 in a thousand, although Islington is one of the healthiest districts in the metropolis. The death rate, however, is nearly double that in the eastern districts. If you go to Whitechapel, for instance, there the death rate is as much as 102 in a thousand; they die before reaching the age of five years. In Manchester, again, the death-rate is 117 in a thousand; in Liverpool it is 132 in a thousand; and all that death rate I put down as death resulting from what I call preventible diseases, and I urge that you can only judge upon this case when you put before yourselves clearly whether it is either moral or right to allow children to be brought into the world, inoculated with the predisposition to be attacked by these preventible diseases, instead of putting, as

I believe you ought to do, a check which would effectively relieve the population so terribly overcrowded; and you have to consider whether by refusing to apply such a check, we are not, by the very refusal, making a large class of criminals. I will put it to you whether such a check would not be a moral one, and I need not enter very fully into all the details, my point being only that some preventive check, is necessary and would be effectual. "This excessive mortality is no doubt mainly due to our crowded and unwholesome dwellings, and to insufficient food and clothing; these causes more or less directly originate from poverty, and therefore would work with intensified effect if poverty were increased. It may be, therefore, thought that the evil of over-population carries with it its own cure; that as the people increase in number poverty becomes greater; that, if there is more poverty there will be a larger number of deaths. A check to increasing population is thus brought into operation, and hence things will be restored to the same state as they were before. The hardest words which have been ever used against Malthusianism altogether fail adequately to characterise such a doctrine. . . . Some definite idea may be formed on the subject by considering the results involved in the present high death-rate prevailing amongst the children of the poor. Assume that there are 1000 of these children, that 500 of them die before the age of five, whereas if they were as well cared for as the children of more wealthy parents, only 200 of them would die before this age. The death, therefore, of 300 is to be traced to defects in our social and economic condition. These children are literally slaughtered and in a manner, moreover, which indicates prolonged suffering. But this is only a part, and perhaps the smaller part, of the mischief which is done: the causes which produce this excessive mortality do not alone affect the children who die; all those who survive are also brought under the same blighting influence. Consequently, to all, the struggle for existence becomes more severe, the more weakly succumb; even the stronger who survive, in passing through the trying ordeal, often contract the germs of future disease, their constitutions being in too many cases undermined. Physical deterioration ensues, and a whole people may thus become gradually stunted and enfeebled." Mr. Fawcett, in his essay on "Pauperism, its Causes and Remedies," page 107, says:—"There is amongst

the poorer classes an excessive mortality amongst children. In the wealthy parish of St. George's, Hanover Square, less than one-third of the total number of deaths is of children under five years old; whereas, in the poor parish of Bethnal Green the deaths of children under five amounted to more than half the total number of deaths." Another check on the population is what is called baby farming. Some years ago, as you may remember, there were brought before the police courts very terrible facts in connection with this point, in consequence of prosecutions that were instituted with reference to what was called "baby farming." Just take one instance which I find mentioned as occurring about that time. A child three years of age was employed in one of those places as a ganger over eight other children, in the midst of whom it sat up in bed and as soon as any one of them awoke it was its duty to put the bottle into its mouth. If any of you, gentlemen, have children three years of age, what would you say of putting such babies over eight other children still younger than themselves, which it would be their duty to take care of all night? Consider this fact, gentlemen, and then say if you can wonder at the terrible preventible morality among the children of the poor? These are the views which we hold, and however this trial may end, whether we succeed in the action that is pending or not, it will still be our bounden duty to proceed on the course in which we have set out—not, I wish to say, in a spirit of undue defiance, but in a patient and yet persistent manner on the path of duty which every good citizen owes to the country—to bring these subjects manfully forward, and to urge them upon the careful consideration of our countrymen and countrywomen until, even if we have to pass through a prison in the doing, we shall at last succeed, as all great causes do, and we shall relieve the ruin caused by overpopulation, and shall bring happiness to the poor, the down-trodden, and the oppressed. There is another kind of check which Dr. Drysdale puts, about which, when he comes before you, he may have something to say. I refer to the very common occurrence of overlying children amongst the poor. Dr. Lancaster puts the case, let me say, very strongly when he states that there are 16,000 mothers in London who have in this way committed child murder. I should be very sorry to believe that this is the case, and I may venture to hope that it savours something of

rhetorical exaggeration ; but in spite of that, this habit of overlying amongst the poor, resulting in coroner's inquests and verdicts of accidental death, is far too common, when in one district in the metropolis alone we find that it gives rise to 101 inquests in the course of a single year, and I cannot help thinking that this is one of those preventible causes of death to which I have been referring. In many cases doctors, driven to their wit's-end, have been forced to give certificates of accidental death from suffocation, while they were aware that there might have been motives for the occurrence, as evidenced by the fact that the child was considered by the parents unwelcome, and as adding a new burden in the struggle with which the poor are afflicted. One other cause I shall put before you, upon the clearest possible evidence, and it shall be the last of the direct checks of which, for the moment, I must speak. One other check, I say, to the growth of the population, of the most fatal character to the mind, as well as to the body, is the great, and I fear ever increasing, prevalence of what is rightly and justly called the social evil, the characteristics of which are known to you all. Knowlton puts it that this terrible scourge leads to sterility, and that sexual intemperance brings in its train the most baneful results. Another of the results which flow from sexual vice is illegitimacy, and, in the case of such children, the chances of life are very small, as will readily be seen, when we consider the circumstances under which such children are born. These are the direct checks which, among us, are at present keeping down the ever-growing increase of the population, in addition to the most fatal diseases that flow from them, all of which, or at any rate, most of which, are, as I contend, preventible, and which will, I fear, still more increase unless we take steps to remove the cause. These diseases I need scarcely add are a fruitful cause of the gradual deterioration which we see taking effect among the working classes, and unless some means can be adopted to stop them, they will increase more and more. Professor Fawcett, in his *Manual of Political Economy*, I find urges upon his readers, on the very same grounds, this question which I have ventured to put before you, and I need not add that it comes from him with far greater weight than it possibly can from me. He states that among "children belonging to the upper and middle classes 20 per cent. die before they reach the age of five;" and he adds

that the amount is more than doubled in the case of children belonging to the labouring classes. This great mortality amongst poor children is caused by neglect, by want of proper food, and by unwholesome dwellings. When we take these facts, and find that this large number of children have literally been murdered; when you consider that the number of these children who, if they had been born in a higher rank would not have died, is calculated by Professor Fawcett at 1,150,000, taking the proportion into account that die amongst the poor more than among the rich, you will see what a large and important question this is, and you will be able to estimate the nature of the evil against which I am pleading to-day. Professor Fawcett in this matter is, I may say, strengthened by the observations of Mrs. Fawcett, that Millicent Garrett, who has become so well and so honourably known. She, too, says that the alarming death-rate amongst the children of the poor, which is induced chiefly by the want of food, clothing, and attention, and from over-crowding "in those districts where they herd together," is "appalling, and is a blot upon the civilisation of this country" ("Political Economy for Beginners," p. 110). Are you, gentlemen, going to give a verdict of guilty against my co-defendant and myself—against a man and a woman whose only efforts have been to consider seriously the means by which this wholesale death may be arrested, and thus to remove the blot which Mrs. Fawcett says has been put upon the civilisation of the country to which we are all proud to belong? These are the natural checks to the overgrowth of the population imposed "by Nature and Providence;" and I will now ask you to consider the means by which the wholesale misery can be avoided which is caused by the operation of those checks. I put it to you whether you are prepared to take upon yourselves the task of bringing in a verdict against us, who, feeling the terrible responsibility lying upon us with regard to the poor, and seeing that the natural checks are incapable of keeping down the population to legitimate limits, and that its undue increase brings about us a mass of human crime and misery, try to substitute prudential for positive checks. It is that crime and misery which we desire to alleviate by applying checks to the over-population of the country—checks so much required at the present time. In that endeavour, so far as it is set forth in this publication, we—Dr. Knowlton, my co-defendant, and myself—we are

all equally responsible. Our desire is common. We wish to bring in effectual checks if possible, and checks which, at the same time, will not harm those who apply them, and which in themselves are neither immoral nor degrading. If the preventive check, the birth-restricting check, does not touch human happiness or affect national morality, it is surely preferable to the terrible checks provided by "nature and providence." One argument only of those which are used against the checks which we propose to introduce is deserving of smallest consideration. Mr. Darwin in his "Origin of Species" puts that argument in the strongest light. Mr. Darwin thinks rightly, with reference to the lower animals, that the application of "natural" checks upon the natural rate of increase is really for the welfare and progress of the various classes of brutes; and Mr. Darwin thinks this "natural" check good for the human species, and in this he is supported to a certain extent by Mr. Herbert Spencer. I will venture to lay before you what I consider to be his strongest statement of that argument, and therefore of any possible objection. Mr. Darwin, writing to us a few days since, pointed our attention to the following extract from his "Descent of Man," p. 618:—"The enhancement of the welfare of mankind is a most intricate problem; all ought to refrain from marriage who cannot avoid abject poverty for their children, for poverty is not only a great evil, but tends to its own increase by leading to recklessness in marriage. On the other hand, as Mr. Galton has remarked, if the prudent avoid marriage, whilst the reckless marry, the inferior members tend to supplant the better members of society. Man, like every other animal, has no doubt advanced to his present high condition through a struggle for existence, consequent on his rapid multiplication, and if he is to advance still higher it is to be feared that he must remain subject to a severe struggle; otherwise he would sink into indolence, and the more gifted men would not be more successful in the battle of life than the less gifted. Hence our natural rate of increase, though leading to many and obvious evils, must not be greatly diminished by any means." That is Mr. Darwin's position, and, putting aside for a moment the awful amount of human misery which it accepts as the necessary condition of progress, let us see if the position be defensible. I have no doubt that if natural checks were allowed to operate right through the human, as they do in the animal, world, this re-

sult would follow. But I may be allowed to direct attention to the point that Mr. Darwin has overlooked, the fact that these natural checks are not so allowed to operate among men and women. Mr. Darwin, you must remember, is accustomed to dealing chiefly, if not exclusively, with the animal kingdom—I mean the animal kingdom as excluding man. He, therefore, overlooks the elements which accompany the struggle for existence as it goes on among the higher class of animals—*i.e.*, man—and that it is in no way comparable with that which goes on among the lower. Among the brutes the weaker are driven to the wall, the diseased fall out in the race of life, and the old brutes, when feeble or sickly, are killed. We all know and have read of instances in which wounded stags have been set upon by their companions and killed. If that were the case amongst men—if the drunken and the improvident were over-riden in the struggle for existence by those who were careful and temperate—the result might be to improve those who survived, and Mr. Darwin's position might be true. If men insisted that those who were sickly should be allowed to die without help of medicine or of science—if those who were weak were put upon one side and crushed—if those who were old and useless were killed—if those who were not capable of providing food for themselves were allowed to starve,—if all that were done, the struggle for existence among men would be as real as it is among brutes, and would doubtless result in the production of a higher race of men; but are you willing to do that, or to allow it to be done? If not, you are taking away the natural checks instead of keeping them; and instead of improving the race of human beings in the midst of a struggle for existence, you are perpetuating that which tends to the deterioration of the race. For what are you doing? You are protecting and fostering the most careless, the most improvident, the most thoughtless, the most drunken, the most miserable, the most criminal elements of your population, and so you are perpetuating improvidence, crime, misery, disease, and all that tends to the deterioration of the race, while the more provident and more thrifty—those whose qualities should be transmitted, are exactly those who do not marry. Put in this way, the objection, I think, is not valid; and it seems to me that in his argument Mr. Darwin has altogether overlooked this aspect of the question, which is fatal to the ground that he has taken up—the

ground that the natural checks should be sufficient in the human as in the animal kingdoms to overcome the tendency to over-population. We have not, therefore, to deal with nature so much as with scientific checks.

THE LORD CHIEF JUSTICE: I think that is a point very well worthy the serious consideration of Mr. Darwin. Whether there may result, as a consequence of the struggle for existence among mankind, the survival of a smaller number of the strongest, or a larger number of the weaker, and whether, should it be found that the weaker survive, the race is not by that means in process of deterioration. The process might result in a few of a higher race, but the effect on the masses would be an increase of suffering and of misery.

Mrs. BESANT: That, my lord, is just the point that I have been endeavouring to make. My contention is that these natural checks cannot have free operation among men, and, although where they have, they eliminate the weaker portions of races, they cannot be fairly applied to mankind; and I trust I shall be able to show that as they cannot be so applied, we are left with the great difficulty that the weaker, who, in the animal world would be pushed out of existence, are, among men, capable of communicating their weaknesses to their offspring, and so they deteriorate succeeding generations. It is for that reason that we seek to bring in an artificial check. Nature balances herself, but if we remove her checks by civilization, and cure those whom she would kill, we must put some other checks in their place. Mr. Darwin believes with us that is necessary to apply some check, in order to promote civilization among men, and to eliminate the elements which all are agreed should be suppressed if possible. He points out (p. 133), that among "savages, the weak, in body or mind, are soon eliminated," and that "we civilized men, on the other hand, do our utmost to check the process of elimination; we build asylums for the imbecile, the maimed, and the sick; we institute poor laws; and our medical men exert their utmost skill to save the life of every one to the last moment. There is reason to believe, that vaccination has preserved thousands, who, from a weak constitution, would formerly have succumbed to small-pox. Thus the weak members of civilized societies propagate their kind. No one who has attended to the breeding of domestic animals will doubt that this must be highly injurious to the

race of man." But Mr. Darwin does not meet his own argument. He states his case, he puts the fact upon record, but he does not suggest any positive remedy, nor does he show how such a remedy, if known, can be applied, so as to ensure success. The checks we propose might eliminate the sickly, just as does the struggle for existence. Dr. Knowlton insists that the proper check to be applied is, not to interfere with the natural and healthy play of the feeling of mankind, but one which may be applied after marriage, and that check, he contends, would deal with the evils of over-population successfully. He does not propose that the check should involve any undue or any unnatural restraint, and so far he is at complete issue with Mr. Malthus, who argues in favour of late, and against early, marriages. Differing, as I do, with Malthus on this point, I here utterly sever my allegiance to him. I do not believe in delaying marriage until a late age in consequence of the considerations he urges for doing so. Malthus puts his argument very clearly and strongly, and it is one which, in my opinion, very few people indeed will be found ready to adopt. No doubt late marriage, from his point of view, would provide some sort of check, but the attendant evils are so great that I infinitely prefer a check which does not necessitate late marriages. Such a check, I believe, has been found by Dr. Knowlton. Malthus says, pp. 404, 405 : "When the wages of labour are hardly sufficient to maintain two children, a man marries and has five or six ; he, of course, finds himself miserably distressed. He accuses the insufficiency of the price of labour to maintain a family. He accuses his parish for their tardy and sparing fulfilment of their obligation to assist him. He accuses the avarice of the rich, who suffer him to want what they can so well spare. He accuses the partial and unjust institutions of society, which have awarded him an inadequate share of the produce of the earth. He accuses, perhaps, the dispensations of Providence, which have assigned to him a place in society so beset with unavoidable distress and dependence. In searching for objects of accusation, he never adverts to the quarter from which his misfortunes originate. The last person he would think of accusing is himself." I shall put it to you that whether the man be a labouring man or one of higher rank who marries, and, in course of time, brings into the world a number of children, when he has not sufficient income to provide adequately for

their wants, is a man who commits a crime, not only against the children themselves, who are born into misery, but commits a crime against the society of which he is a member, because all the children brought into the world, which cannot be sufficiently provided for by their parents, are thrown, for maintenance, upon the saving, the thoughtful, and the self-restraining portion of the community, who have not given rein to their passions. You have Malthus saying that, by the proposal he puts forward, there is a fair prospect that those who bring children into existence shall have a fair means of supporting them; but it did not strike him that young men would not exercise that self-restraint which he advocated, and which he holds to be the bounden duty of men before marriage. He says: "Our obligation not to marry till we have a fair prospect of being able to support our children will appear to deserve the attention of the moralist, if it can be proved that an attention to this obligation is of most powerful effect in the prevention of misery; and that if it were the general custom to follow the first impulse of nature, and marry at the age of puberty, the universal prevalence of every known virtue in the greatest conceivable degree would fail of rescuing society from the most wretched and desperate state of want, and all the diseases and famines which usually accompany it." And he urges: "All that the society can reasonably require of its members is that they should not have families without being able to support them. This may be fairly enjoined as a positive duty." "This preventive check does act," he says, "to some extent. The most cursory view of society in this country must convince us that throughout all ranks the preventive check to population prevails in a considerable degree. Those among the higher classes, who live principally in towns, often want the inclination to marry, from the facility with which they can indulge themselves in an illicit intercourse with the sex. And others are deterred from marrying by the idea of the expenses that they must retrench, and the pleasures of which they must deprive themselves, on the supposition of having a family. A man of liberal education, with an income only just sufficient to enable him to associate in the rank of gentlemen, must feel absolutely certain that if he marry, and have a family, he shall be obliged to give up all his former connections. The woman whom a man of education would naturally make the object of his choice, is one brought up

in the same habits and sentiments with himself, and used to the familiar intercourse of a society totally different from that to which she must be reduced by marriage. Can a man easily consent to place the object of his affection in a situation so discordant probably to her habits and inclinations? Two or three steps of descent in society, particularly at this round of the ladder, where education ends and ignorance begins, will not be considered by the generality of people as a chimerical, but a real evil." Malthus also points out, but I will not trouble you or take up the time of the Court by quoting the passage, that this check acts in the most unfair fashion. It is not those who ought to refrain from marriage, but those who ought to marry who hesitate. It is those who by extra carefulness and foresight fear the results, those who feel the full weight of the responsibility pressing upon them, to whom marriage is disagreeable, and on the other hand it is those who have no care or prevision for those whom they will in the natural order of events have to support, who rush into marriage, and never think of consequences. But is late marriage a good check, and is it productive of morality? The Lord Chief Justice pointed out yesterday that the object of this book was not to prevent early marriages, because the author of it speaks strongly in favour of them, but simply to discover some way in which the moral effects of early marriages might not lead to the immoral effects which occur from over large families. To put off marriage to a late age is, in my opinion, almost certain to lead to immorality, and to consequences of the most unfortunate and regrettable kind. In the first place, people would never consent to the long continuance of self-denial which is involved in the idea. You will never get any large majority of men or women whose natural instincts lead them to join their hands in marriage to forbear, and, therefore, I consider that this is one of the most impracticable schemes which ever entered into the brain of a man of intelligence to propound. Dr. Knowlton's scheme is a very different one. He states that it is a piece of folly to suppose that men and women "will become monks and nuns during the very holiday of their existence, and abjure during the fairest years of life the nearest and dearest of social relations, to avert a catastrophe which they and perhaps their children will not live to witness." I say that men and women will marry young—in the flower of their age—and more especially will this be the case amongst the poorer classes. You

will find that Mr. Montague Cookson, who is one of Her Majesty's counsel learned in the law, and whose duty it is to assist and promote, not to hinder, public morality, ridicules the idea that a young man who has the chance of marrying will refrain from doing so. He says : "To tell a labouring man who has the chance of a cottage that he is not, on prudential grounds, to think of marrying until he has mastered the law of averages, and that even then he is running a considerable risk, is little else than a solemn mockery, and he is entitled to retort that he does not care to be more prudent than his betters. To him a wife is infinitely more necessary than to those of ampler means ; for, the public-house apart, all his material comforts must be looked for in his own home, whilst his richer neighbours may satisfy all their wants abroad. It is one thing to have a club-kitchen, and another to have a kitchen for your club." That passage puts shortly and fairly the very feeling that I have myself. I cannot go to the poor man, and tell him that the brightest part of his life is to be spent alone, and that he is to be shut out for years from the comforts of a home and the happiness of married life. I shall have to press this point strongly upon you because the Solicitor-General, in the remarks he addressed to you yesterday, told you that Dr. Knowlton used the word "marriage" merely to cloak his hidden object of advocating a system of immorality. If that is true, the same censure passed on the author of this book must equally attach to my co-defendant and to myself; but let me point out to you that to put forward such a theory is really preposterous, and had it come from any one else than a Solicitor-General who is so high in his profession, so well practised at the bar, and so thoroughly acquainted with the courtesies which belong to a court of justice, I should say that it was one of the most unjust and malicious suggestions that could have fallen from the mouth of an unjust advocate against any defendant whom he was prosecuting. I am going to put this point strongly before you. What do you find? Why, that amongst young professional men marriage is less common than it was ; not that they have any disinclination to the married state, not that they shrink from the enjoyment of wife and home, but because they have seen and taken to heart the miseries which too often follow early marriages, and a consequent large family, and they refrain from following their natural incli-

nation from prudential motives. The struggle through which they have to pass before they arrive at an honourable position either at the bar, in medicine, or in the church is such that they reflect three times—ay, four times, before they ask a woman of culture and refinement to place herself in a position where for perhaps eight or nine years her home-life will be a mockery of comfort and a weariness. And yet I say that to put off marriage to a late age is utterly demoralising in its tendency. You will find that fairly put in the first chapter of the “Fruits of Philosophy;” and while I read the extract, I ask you to remember that of such a passage it is put to you by the Solicitor-General that the language is only used as a cover for the advocacy of public immorality. Dr. Knowlton says of late marriage: “But, besides being ineffectual, or if effectual, requiring a great sacrifice of enjoyment, this restraint is highly objectionable on the score of its demoralising tendency. It would give rise to a frightful increase of prostitution, of intemperance and onanism, and prove destructive to health and moral feelings.” And he goes on: “Let us now turn our attention to the case of unmarried youth. Almost all young persons, on reaching the age of maturity, desire to marry. That heart must be very cold, or very isolated, that does not find some object on which to bestow its affections. Thus, early marriages would be almost universal did not prudential considerations interfere. The young man thinks ‘I cannot marry yet, I cannot support a family. I must make money first and think of a matrimonial settlement afterwards.’ And so he goes to making money, fully and sincerely resolved, in a few years to share it with her whom he now loves. But passions are strong and temptations great. Curiosity, perhaps, introduces him into the company of those poor creatures whom society first reduces to a dependence on the most miserable of mercenary trades, and then curses for being what she has made them. There his health and moral feelings alike make shipwreck. The affections he had thought to treasure up for their first object are chilled by dissipation and blunted by excess. He scarcely retains a passion but avarice. Years pass on—years of profligacy and speculation—and his first wish is accomplished, his fortune is made. Where now are the feelings and resolves of his youth? He is a man of pleasure, a man of the world. He laughs at the romance of his youth, and marries a fortune. If gaudy equipage and gay parties confer happiness, he is

happy; but if they be only the sunshine on the stormy sea below, he is a victim to that system of morality which forbids a reputable connection until the period when provision has been made for a large expected family. Had he married the first object of his choice, and simply delayed becoming a father until his prospects seemed to warrant it, how different might have been his lot. Until men and women are absolved from the fear of becoming parents, except when they themselves desire it, they ever will form mercenary and demoralizing connections, and seek in dissipation the happiness they might have found in domestic life." This is written by the man whom the Solicitor-General would have you believe advises young people to rush into promiscuous intercourse and give the reins to their unrestrained passions. You are asked to believe that, and I can only hope that the sudden strain of parliamentary duty which has lately taken up so much of the time of the Solicitor-General has prevented him from reading this book over with that carefulness which it deserves. If it is not so, I fear I should have to accuse him of something worse than I feel disposed to do under the circumstances. There is no word or suggestion of promiscuous intercourse here. Gentlemen, this is the language of a man who is put before you as one desirous of stirring up the passions of youth, and I ask you whether a man with that intention at heart would be likely to preface his book with remarks directly aimed against profligacy of every sort, and with such solemn warnings against every kind of unfair and immoral living. I think, therefore, I may fairly put it that every young man naturally desires to make a home and enter upon married life when first he comes out into the world. I do not believe that any young man sets out with the intention of rushing into fast life and dissipation, but men are frequently drawn into habits of that kind because they fear the results that follow from early marriage. [Since I am told that our object is to increase immorality, and that we only use the word "marriage to conceal the foulest designs upon the purity of society, I may say freely that I hold early marriages to be the very salvation of young men, and especially of young men in our large cities. [I hold the belief with a depth of conviction which I cannot put to you in words, that for one man and one woman to help, comfort, and support one another, which they are by nature adapted to do, is a state which

is to be reached, which is to be perpetuated by marriage, and in no other way. It is only by companionship, and the union between a man and a woman, that this is possible. Shut a young man out from the loving influences of home, the golden institutions of the fireside, his wife's society, and the happiness of becoming a father, and you induce a life of profligacy. Gentlemen, do not be deceived. There is no talk in this book of preventing men and women from becoming parents; all that is sought here is to limit the number of their family. And we do not aim at that because we do not love children, but, on the contrary, because we do love them, and because we wish to prevent them from coming into the world in greater numbers than there is the means of properly providing for.] Children, I believe, have an influence upon parents purifying in the highest degree, because they teach the parents self-restraint, self-denial, thoughtfulness, and tenderness to an extent that cannot possibly be over-estimated; and it is because I wish to have it made possible for young men and for young women to have these influences brought to bear upon them in their youth, that I advocate the circulation of a book that will put within their reach the knowledge of how to limit the extent of their families within their capabilities of providing for them; for no man can look with pride and happiness upon his home if he has more children than he can clothe and educate. It is because I wish them to marry in the springtime of their youth that I ask you by your verdict in this action to make discussion on these subjects possible, and that men should not be driven to find a substitute for true and pure womanhood and wifehood in other directions.] If you render this possible you will make your streets purer and your families happier than they are at present. You have frequently heard the question of disinclination to marry brought forward, and it was not so long since discussed in the public newspapers, and I put it to you whether that was the case fifty years ago? If it was not, what is the reason? Any young man might have married and brought up a family then in comfort, while with the same income he would find it impossible to do so to-day; marriage is less frequent because young men have felt the effects of the law of over-population without knowing clearly from what they are suffering. The increase of population has decreased the value of income, and where the income does not in-

crease with the family, an over number of children brought into the world only means pauperism. Hence it is that the natural desire for marriage is thwarted by the present state of things, and this leads, as Dr. Knowlton puts it, either to profligacy or to asceticism. I need not re-read the passage on profligacy to you; you have seen he speaks strongly against it. Take a passage from Mr. Montagu Cookson on the same subject. He says: "If, indeed, we could all become perfect beings, the rule of life deduced by Malthus from the unalterable law of population would be both practicable and safe: as it is, it has a direct tendency to promote the cardinal vice of cities—that of unchastity. The number of women in England who ply the loathsome trade of prostitution is already large enough to people a county, and, as our great thoroughfares show at nightfall, is certainly not diminishing. Their chief supporters justify themselves by the very plea which Malthus uses to enforce the duty of continence, namely, that they are not well enough off to maintain a wife and family. If they could be sure that they could limit the number of their children, so as to make it commensurate with their income, not only would the plea be generally groundless, but I believe it would not be urged, and the so-called social evil would be stormed in its strongest fortress. The vice itself would become more immoral, because more without excuse, and its greater immorality would, as in the case of other offences, help to make it more rare. The world at large is only tolerant in matters relating to the sexes when the frailty of human nature makes it necessary that it should be." But, gentlemen, we are not perfect beings; and if young men only knew how to limit the number of their families, then they would have no disinclination to marry. I may just put before you the terrible results of profligacy, and in doing so do not imagine that I think you do not know far better than I do the enormous amount of damage which comes from that which is called "the great social evil," against which it has been thought necessary to invoke a special class of most unfortunate legislation. It is not only a danger for the bodies of young men, but, perhaps, a still greater danger to their minds, for association with women of the character of those to whom I refer makes a man lose his respect for pure womanhood, and taints the sacred bond of married life even when it is at last entered upon; and to the unhappy women who are the victims of this terrible evil the injury is yet

worse : they become hardened out of all that is womanly , reckless in their shame, they rush into drunkenness and excess. and end, too often, a miserable life with a disgraceful death. These are some of the miseries which flow from the social evil ; and if we could introduce checks after marriage has taken place, we should wound the evil in its vital point. If the Solicitor-General should again endeavour to make you imagine that we are using the word marriage because our real and our avowed objects are opposed, let me ask you to remember what I have said on this point. If profligacy is bad, what shall we say of asceticism ? If you now take up the passage on page 7, where I left it a short time ago, you will see how he treats the matter of asceticism : “ Sometimes, if even rarely, the young mind does hold to its first resolves. The youth plods through years of cold celibacy and solitary anxiety, happy, if before the best hours of his life are gone, and his warmest feelings withered, he may return to claim the reward of his forbearance and his industry. But even in this comparatively happy case, shall we count for nothing the years of ascetic sacrifice at which after happiness is purchased ? The days of youth are not too many, nor its affections too lasting. We may, indeed, if a great object require it, sacrifice the one and mortify the other. But is this, in itself, desirable ? Does not wisdom tell us that such a sacrifice is a dead loss—to the warm-hearted often a grievous one ? Does not wisdom bid us temperately enjoy the springtime of life, ‘ while the evil day come not, nor the years draw nigh, when we shall say we have no pleasure in them.’ Let us say, then, if we will, that the youth who thus sacrifices the present for the future, chooses wisely between the two evils, profligacy and asceticism. This is true ; but let us not imagine the lesser evil to be a good. It is *not* good for man to be alone. It is for no man or woman’s happiness or benefit that they should be condemned to Shakerism. It is a violence done to the feelings and an injury to the character. A life of rigid celibacy, though infinitely preferable to a life of dissipation, is yet fraught with many evils. Peevishness, restlessness, vague longings, and instability of character, are amongst the least of these ; the mind is unsettled and the judgment warped. Even the very instinct which is thus mortified assumes an undue importance, and occupies a portion of the thoughts which does not of right or nature belong to it, and which during a life of satisfied affection it would not obtain.” So he goes on to

point out that both are evils, but that it is more wise to choose asceticism than profligacy; yet at the same time he points out clearly the evils that flow from asceticism as well as those that result from profligacy. For asceticism is an evil, though not so great a one as profligacy; it is unnatural, and therefore it is unhealthy. We know from a large mass of statistics collected from the census returns that married people live longer than the unmarried. In 1853, for example, we find that the unmarried men in France between the ages of twenty and eighty died in a much larger proportion than did those who were married. The figures show that 11·3 annually die out of a thousand among the unmarried, whilst the proportion of married men is only 6·5. Similar results are found in 1863-4 with reference to the entire population of Scotland above the age of twenty. Out of a thousand between the ages of twenty and thirty 14·97 unmarried men died, whilst the proportion of married men was only 7·24, which is less than one-half. These figures, it seems to me, are destructive of the theory of Malthus against early marriages. One other point I will put before you. Dr. Drysdale, in his pamphlet on Prostitution, dealing with the evils of celibacy, says:—"Sir Benjamin Brodie at the meeting of the Social Science Association in Birmingham, said that the evils of celibacy were so great that he could not mention them; but that they fully equalled those of prostitution." We find also that Mr. Holmes Coote, late surgeon to Bethlehem Hospital, used to speak in the same way, and regarded celibacy as one of the causes of lunacy. Evidence so strong, you will agree with me, tells convincingly in favour of early marriages, and against either profligacy or celibacy. You can find, indeed you know without my telling you, what is the opinion of medical men regarding the evils which follow from subduing the natural instincts and living in a state of entire celibacy; and perhaps the evils that result from an unmarried life are more terrible amongst women than amongst men, because when women are unmarried they generally lead purer lives than do the majority of men. And you find among monks and nuns the natural sexual desires coming out in the most curious forms. In countries where monasteries and convents abound a kind of thwarted sexual feeling arises, and it is strangely exhibited even in the hymns that are sung and the prayers that are used. Anyone who is familiar with Roman

Catholic or with High Church manuals will recognise this fact. The misplaced sexual feelings run, in the case of the monks, towards the Virgin, and in that of the nuns to the son of the Virgin, and so nature avenges herself when she is dwarfed and stunted, when the natural affections are not allowed to flow in the channel prescribed by nature. The same thing is observable among High Church sisterhoods in this country, and is exemplified in the character of the hymns and prayers used. These are some of the evils that arise from celibacy, and on this point let me refer you to the last paragraph on page 8, which I will not read, as you have the books before you. I want to draw your attention to the diseases that arise from celibacy, and I would specially point out to you the value of Knowlton in such a case as is there alluded to. You know the unhappy position of those who are persuaded by quack doctors, playing upon their ignorance, that they are not in a condition to enter the married state. You can imagine the unhappiness of those who fall into the hands of these people. They play upon the fears of young men, and are the ruin, both in pocket and in body, of all those who have anything to do with them. Many of these poor victims would have been saved a life of misery if this little sixpenny book had fallen into their hands when they were entrapped by quack doctors; yes, even if the book had been sold them by a hawker—one of those who have been sent to prison—at the corner of a street; for on reading it they would have learned to distrust the men who falsely told them they were unfit to marry, and they would, in later life, have blessed the chance opportunity that threw the publication in their way, as they enjoyed the blessings of a happy home, and looked around with thankfulness upon their two or three children. Such are a few of the evils of profligacy and asceticism, both of which are bad, and both of which may be obviated by early marriages. Perhaps I may here advert to what Mr. Montagu Cookson says of the evils resulting from celibacy to both sides. We have often heard those hard and unwarrantable sneers that are levelled at old maids in this country. It is true they are often hard and sour, because, nature being thwarted, they are thrown back upon themselves; they are dwarfed, dried up, and withered, all the more certainly because they have no means of preventing their solitary condition. Mr. Cookson puts this point very

strongly. He says : "To refuse marriage to men altogether, or to require them to postpone it indefinitely after the maturity of their judgment has justified their choice, is to inflict an injury on the whole community by encouraging special forms of evil, perhaps even calling them into existence. Many a woman whose daily life is now dedicated to her dress, or her household, or who has become so entangled in the narrow meshes of acquaintanceship—which she dignifies by the name of society—as not to have an idea beyond, might have escaped all this bondage if imagined necessity had not doomed her to spinsterhood. Many a man into whose soul has stolen the slow poison of moral and intellectual cynicism, might have retained his early freshness if the example of some friend had not taught him to remain single, rather than succumb to the yoke of marriage, with its heavy, because uncertain, burdens. Meantime better, perhaps, not to pry too closely into the consolations he allows himself, or the mode in which he seeks to reconcile what is with what might have been." That is the way in which Mr. Cookson pleads against late marriages. By postponing marriage, people in middle life often find, when they take upon themselves its duties, that nature revenges herself upon them for having thwarted her teachings, and too often such marriages turn out barren, simply because the married persons, from their long celibacy, are incapacitated from producing children, Nature denying her blessings to those who have despised them. I leave these remarks for your consideration. I do not now deal with the effect of all this upon society, because I have already said as much upon that aspect of the question as I think necessary, and I conclude that both profligacy and celibacy are evils, and if it is argued that early marriages produce as great evils, we are placed in a dilemma as to what course should be recommended. We must inquire whether we cannot secure the benefits of early marriages without undergoing the evils of overpopulation which result from them ; but to do that we must maintain the preventive, the birth-restricting, check, as preferable to the death-producing, but we must bring this check into operation after marriage, and not before.

This is the object which this book has in view, and it is no part of its object either to destroy marriage, or to favour profligacy, or to promote promiscuous intercourse ; but, on the contrary, to enable people to marry early, and, at the same time, to avoid those evils which come by overpopulation.

John Stuart Mill's work on Political Economy—which is regarded everywhere as a standard work, and is accepted as a text-book at the universities of Oxford and Cambridge for the instruction of young men, and on which young men are examined, and in which they are taught—invites them to restrain their passions, and to limit the number of their families; but, so far as this work goes, they are left in ignorance how the recommendations it contains are to be carried out, and, therefore, they are unable to save themselves from the very evils against which they are warned. Take the following passage as a fair sample of John Stuart Mill's opinion :—" Poverty, like most social evils, exists because men follow their brute instincts without due consideration. But society is possible, precisely because man is not necessarily a brute. Civilisation in every one of its aspects is a struggle against the animal instincts. Over some, even of the strongest of them, it has shown itself capable of acquiring abundant control. It has artificialised large portions of mankind to such an extent, that of many of their most natural inclinations they have scarcely a vestige or a remembrance left. If it has not brought the instinct of population under as much restraint as is needful, we must remember that it has never seriously tried. What efforts it has made, have mostly been in the contrary direction. Religion, morality, and statesmanship, have vied with one another in incitements to marriage, and to the multiplication of the species, so it be but in wedlock. Religion has not even yet discontinued its encouragements. The Roman Catholic clergy (of any other clergy it is unnecessary to speak, since no other have any considerable influence over the poorer classes) everywhere think it their duty to promote marriage, in order to prevent fornication. There is still in many minds a strong religious prejudice against the true doctrine. The rich, provided the consequences do not touch themselves, think it impugns the wisdom of Providence to suppose that misery can result from the operation of a natural propensity : the poor think that ' God never sends mouths but he sends meat.' No one would guess from the language of either, that man had any voice or choice in the matter. So complete is the confusion of ideas on the whole subject : owing in a great degree to the mystery in which it is shrouded by a spurious delicacy, which prefers that right and wrong should be mismeasured and confounded on one of the subjects most momentous to human welfare, rather than

that the subject should be freely spoken of and discussed. People are little aware of the cost to mankind of this scrupulosity of speech. The diseases of society can, no more than corporal maladies, be prevented or cured without being spoken about in plain language." You have the testimony, gentlemen, of the Solicitor-General that in this pamphlet there is no vulgarity of language and no coarseness of expression. He puts it as strongly as a counsel for the defence could possibly put it; and therefore if it is only spoken in plain language, without unnecessary vulgarity or coarseness, we will deal with it, if you please, as just one of those productions which you think it is right should speak in plain terms of corporeal maladies, and ought not to be dragged—utterly unfairly as it is dragged now—within the reach of the criminal law in this country (for it is only in this country that this subject is thought outside the barrier of ordinary decent discussion: in any foreign country—in France or Italy—all scientific men have full liberty in discussions of this kind). Mr. Mill goes on: "All experience shows that the mass of mankind never judge of moral questions for themselves, never see anything to be right or wrong until they have been frequently told it; and who tells them that they have any duties in the matter in question, while they keep within matrimonial limits? Who meets with the smallest condemnation, or rather, who does not meet with sympathy and benevolence, for any amount of evil which he may have brought upon himself and those dependent on him, by this species of incontinence? While a man who is intemperate in drink, is discountenanced and despised by all who profess to be moral people, it is one of the chief grounds made use of in appeals to the benevolent, that the applicant has a large family and is unable to maintain them. One cannot wonder that silence on this great department of human duty should produce unconsciousness of moral obligations, when it produces oblivion of physical facts. That it is possible to delay marriage, and to live in abstinence while unmarried, most people are willing to allow; but when persons are once married, the idea, in this country, never seems to enter any one's mind that having or not having a family, or the number of which it shall consist, is amenable to their own control. One would imagine that children were rained down upon married people, direct from heaven, without their having art or part in the matter; that it was

really, as the common phrases have it, God's will, and not their own, which decided the numbers of their offspring." That is the way John Stuart Mill puts the law, and presses on all those who marry the duty of limiting their families. Professor Leone Levi, whom we find lecturing recently to working men on their "Work and Pay," points out that "a proper restraint in the matter of matrimony and prudence as regards the increase of our families" is necessary; showing that the prudence must be after marriage, since he is speaking of the increase of families, and saying that "we cannot trust on so much wisdom on the part of the people," and so we must turn to emigration. Clearly he thinks that true "wisdom on the part of the people," as he puts it, would lead to prudence as regards the increase of families; and he says, as we cannot trust to so much wisdom on the part of the people, "our only hope must lie in the vast fields of emigration." Mrs. Fawcett puts exactly the same thing, in words whose meaning cannot be disputed. She had been writing on pauperism, and had been showing that "no speculations as to the industrial prospects of England are worth the paper they are written on if they do not take into account the probable future of pauperism." She says: "If, in the future industrial competition of nations, England is to keep either first or second in the field, she must devise some means, not only of checking the growth of pauperism, but of eradicating the disease from her social system. And those who deal with this question of pauperism should remember that it is not to be remedied by cheap food, by reductions of taxation, or by economical administration in the departments, or by new forms of government. Nothing will permanently affect pauperism while the present reckless increase of population continues. And nothing will be so likely to check this increase as the imposition by the State on parents of the whole responsibility of maintaining their offspring." When Mrs. Fawcett says that you must check population by making parents maintain their own offspring, she necessarily means that if, after marriage, parents found they had to maintain their own children, they would find some means of checking the rapid increase of the family. That same argument I might bring to you very strongly from Mr. Montagu Cookson, who is on some points so extremely clear, that I do not propose to read very much of him, because I am inclined to think that the pages of a magazine are not exactly the medium which I myself should

choose for the discussion of a question of this kind. When people wish to discuss questions of this kind, they should do so in medical or physiological works. I think that in ordinary magazines physiology and other kindred subjects should not be mixed up with more general questions, and I urge specially in regard to Knowlton that no one need buy his book unless they desire to read it, and that every one who buys it knows exactly what the character of the book is on which he is spending his money. That is hardly so with respect to a magazine of the ordinary character. I think part of Mr. Montagu Cookson's article is far more plain-spoken than I should myself have cared to put in the pages of an ordinary magazine; but that is, of course, a question for his own taste and not for me. He says he need not say more to explain his meaning, which is perfectly true, for he had said quite enough to explain his meaning very thoroughly. Then he goes on: "Those who have followed me so far will hardly need that I should add more by way of explaining my meaning; and I rejoice to think that there are not a few who are familiar with the moral lesson deducible from these remarks, and whose daily practice it has long since served to shape." And he goes on to point out that many may "Think the practical conclusion to which I point, *i.e.* prudential restraint after marriage, wilder than anything Malthus ever dreamt, whilst others will regard it with pious horror on moral or religious grounds. To the former I would say it is premature to predict that any untried experiment will fail until you have shown that the conditions of its success are at variance either with the established facts or with the ascertained laws. In the case before us, the facts do not belie the conclusions, for, I repeat, there already exists a school of moderation, based on the convictions here stated, which boasts several disciples. I believe there would be vastly more if the force of public opinion were brought to bear upon the question. Of ascertained laws which are fatal to its success there is absolutely not a trace, except it be the law of our own inclination, which, if in earnest, we can mould as we choose, each strengthening each in the task. At present, however, no one thinks of lifting a finger to assist his neighbour in the matter, and as long as such perfect indifference prevails, and an impenetrable veil of mystery is drawn over the whole subject, every man's secret will perish with him, and the advance of the human race in this all-important department of knowledge will, for want of the

power of transmission, be no more rapid than that of the brutes. To those again who raise objections which appear to them to have their root in morality, as distinct from revealed religion, I answer :—It would be interesting if it were not melancholy, to observe the way in which, both in writing and speaking, men are perpetually admitting the material inconveniences due to an excess of population, whilst they give the go-by to the obvious solution that the numbers of children born after marriage should be limited in the manner I have endeavoured to indicate.” I ask you, gentlemen, whether by writing that an impenetrable veil of mystery is drawn over the whole subject, and that “every man’s secret” perishes with him, whether Mr. Montagu Cookson does not thoroughly suggest to those who are well acquainted with physiological details, that it would be well that every man’s secret should not perish with them, but that for the benefit of their neighbours they should transmit to each other that which has been of benefit to themselves. You find him saying that as landlords cannot make the cottages large enough for the labourers, the labourers must limit their families to their room. He says the limitation of the number of the family ought to be secured “by obedience to natural laws which all may discover and verify if they will, and that such limitation is as much the duty of married persons as the observance of chastity is the duty of those that are unmarried. One of the main wants of the day is, as I conceive, the formation of a sound public opinion on this subject.” He does not ask from married people that chastity after marriage which he demands from the unmarried. He tells them to discover natural laws, and to apply them, and he says that such limitation is the morality of married life. He says that one of the most important wants of the day is the formation of a sound public opinion on this subject. Taking that article, and that he says it is to be after marriage that he wants the cottager to limit his family, that it is after marriage he wants the hedger and the ditcher to practise this duty, I ask you how his suggestions can be carried out unless you publish a physiological treatise giving those natural laws which cottagers and hedgers and ditchers could not discover for themselves, however much Mr. Montagu Cookson may be able to do it? How is it possible his wishes can be carried out unless at a low price, in plain Saxon English, you get these natural laws put forward whereby the offspring can be limited after marriage? I believe that in

dealing with that point Mr. Bradlaugh will have something to mention, because I believe Mr. Montagu Cookson wrote to Mr. Bradlaugh—when he found he was likely to be quoted in a court of law—putting some limitations on the meaning of his words which we do not find in his essay, an essay which is utterly unguarded, and is couched in the strongest terms. I have simply read the passages which give the counsel on this point of Mr. Montagu Cookson, and I have not read certain others which are more suggestive in their wording, because I do not want to make any unpleasantness of feeling in dealing with a subject which is a difficult one for a woman to touch at all in a court of this kind. You have got here to deal with this dilemma: that over-population must be kept down, must be killed down, with misery; or that you must have delayed marriages, with personal and social evils such as I have hinted at; or that you must have early marriages with limitation of families. That I conceive is the dilemma with which my antagonists have to deal, and I will go now to the end for which this book is put forward by Dr. Knowlton. You will find on the sixth page some sentences, which I will not read, if you will kindly look at the book, commencing “In a social point of view.” In the first place we find it is there stated that “the families of the married often increase more rapidly than a regard for the young beings coming into the world or the happiness of those who gave them birth” ought to permit. I will speak for a moment on women’s health in connection with this subject, for to me that is a very vital point in dealing with this book. We have seen the effect on society of over-population; we have not seen the effect on the women themselves, for the premature deaths which keep down the population do not save the health of the mother, who is exhausted by the over-rapid child-bearing. It may save some of the social effects of over-population; it does not save the unfortunate mothers whose health is ruined, and you will find that put very plainly in Dr. Knowlton’s work, when he says the health of the mother is very often sacrificed, and she is “compelled to toil on even at those times when Nature imperiously calls for some relief from daily drudgery.” Here is one point I shall want to prove to you, more from the evidence of witnesses than from a book. There is no question that amongst the women of the poorer classes there is a vast amount of suffering caused by over-rapid child-bearing. You get one special class of disease, that every doctor would tell you

about, and called, in common parlance, among themselves, "falling of the womb," which is merely the result of this excessive child-bearing, which is caused by their being compelled to go about among their families long before they ought to do so, when health and reason demand a certain amount of rest after child-bearing. I have often myself seen a poor woman, a mother of a large family, standing over the wash-tub three or four days after having borne a child, and upon my representing to her the utter ruin to her health which was involved in such a proceeding I would get the reply : "What am I to do? There is another mouth to feed; the children are there and must be provided for, and I must get about." Doctors tell you that you will very rarely find women among the poor who are mothers of large families, who do not suffer from a weakness of this kind, which is entirely referable to the fact that year after year, without any intermission, they are in an almost continual condition of pregnancy. Dr. Bull in his "Hints to Mothers"—which is a book sold by Messrs. Smith, and seen on nearly every book-stall, and about which there is no pretence of secrecy, for it is nearly always to be seen standing side by side with Dr. Chavasse's "Advice to a Wife"—Dr. Bull says : "It is scarcely necessary to advert to the well-known fact that a woman may conceive while nursing." It is thought by the poor, and by many well-educated people too, who ought to know better, that a woman by keeping a child at the breast can check the likelihood of conception. No mistake is more frequent or more fallacious than this, and Dr. Drysdale and Miss Vickery will tell you that a number of diseases result from over-lactation. It gives rise to a peculiar class of diseases, but it does worse, as you will find from the testimony of a man like Dr. Churchill, whose wide experience in these matters no one can dispute. He gives you his opinion on one disease, and says "Among the many causes of this disease rapid child-bearing and over-suckling are the most frequent. The latter is done by the poor to prevent a rapid increase of their family, which it does very effectually when it gives rise to the disorder mentioned, but at the expense of much suffering and loss of health to the mother." That same point is dealt with by Chavasse, and it will be spoken to by Dr. Drysdale and Miss Vickery, and you will see that these poor women are so convinced of the necessity of some check that in their ignorance they adopt this injurious means. You cannot expect man and wife

to live as if divorced ; you cannot expect them to do so ; and to have some check, therefore, poor women actually resort to the fatal practice of nursing children for a year or longer with the hope that by doing that they may keep off the dreaded increase in the family which they desire to escape. It is ruinous to the health of the mother, to the child at the breast, and also to the health of the unborn child. Thus are three human lives simply sacrificed to the ignorance of the poor—the poor who, in their ignorance, struggle to find some check—and yet we are forbidden to enlighten them, to give them some means which would act as the check they need and yet would not harm them. It is not only amongst the mothers of the artisan classes that you find this special suffering ; you find it even amongst the wives of professional men ; and here I need not urge upon you that one vast source of suffering in the home is the almost continual ill-health of the wife, whose health is so often broken down by the almost annual increase of the family. I need not tell you, because your own experience tells you, that a large number of injurious checks are not only used, but are constantly talked about by married women for preventing the increase of their families. And this would not be done if you did not deny to them that physical knowledge which it is said to be immoral to give to them ; but, gentlemen, I think it is far more immoral to force them into ill-health by withholding from them that knowledge which they need. Much of the knowledge needed is given to the wealthier women who wish to have it. That edition of Chavasse which I have, I gave six shillings for at Paddington railway station, and you may get the book much cheaper in paper covers for those who can afford to pay one shilling or eighteen pence, and I know of no reason why Messrs. Smith and Son can go to people who can afford to pay 1s. 6d. and sell them without fear exactly the same knowledge which you say becomes obscene when poor people pay sixpence for it. The knowledge given by Chavasse is of the same character as that given by Knowlton, and gives so much information that any intelligent person would use it for the purpose of checking as well as of increasing the family. On the father I will not say what is the effect of the yearly increase, because you yourselves can judge of the struggle at home with an ever-growing family while the salary does not grow in the same proportion, and I will only say here that, since this prosecution has been begun, one class of men especially have written to us begging

us to carry on this work. I am not now speaking of the very poor, but we have had a number of letters from country clergymen and town clergymen (who from their position many people would expect to be prejudiced against my co-defendant and myself) expressing pleasure that we have had the courage to take this subject up and begging us to go on with it because of the need they see for it. I put that so because, with two clergymen in the witnessbox, it is well that you should know that religious feeling is not against us on this point, although many people would think it would be in a discussion of this kind. There is another point as to the health of the woman which Dr. Knowlton has put somewhat strongly; he urges that "many women are so constituted that they cannot give birth to healthy, and sometimes not to living, children. Is it desirable, is it moral, that such women should become pregnant? Yet this is continually the case." I am still reading from page 6 of Knowlton. There is no doubt that many men and women have diseases of the constitution, have, say madness or consumption, in the family, with many other kinds of hereditary diseases, and that these people will marry. I ask you, gentlemen, whether it is moral that these people should be allowed to marry, to bring into the world children who will be the inheritors of their own diseases? Yet it is hard to say that because there is a trace of madness in the family, all the members of that family should be forbidden marriage. If they do marry a sad experience often shows that the diseases lying dormant in the parent break out in the child, and cause much misery and suffering. Had you not better teach that they may have the comfort of home, the comfort of married life, but that they must, remembering that they might transmit diseases, keep such restraints over themselves as should prevent them from bringing children into the world to inherit the diseases from which their own families have suffered? Then there are the other cases referred to by Knowlton—cases where the delivery of a living child is impossible, and may even have been proved impossible. Here I am going to put a point to you which may astonish you as much as it did myself. Dr. Fleetwood Churchill, in dealing with "the diseases of women" (I quote from the fifth edition), points out that there are many cases where, from previous experience, they know that a woman cannot give birth to a living child. You will easily understand that there may be cases of that kind which could not be discovered

before marriage, or even until the first child was brought into the world. A large number of cases are given here where the doctors found it was impossible for a mother to give birth to a living child. Instead of telling the mother that it was utterly immoral to conceive a child which could never be born alive, Dr. Churchill comes to the conclusion that where they had once found out that a woman could not be delivered of a living child, it was better to induce premature labour, or to induce abortion at an early stage. I must put it to you, that it is most immoral to allow a woman to go on conceiving children that she will never be able to bring into the world—for I hold that to destroy life, after it once lives, is the most immoral doctrine that can be put forward; and that when a doctor goes to a man and tells him that his wife can never bear a living child, he ought to be able also to impart to him such physiological instruction as should prevent the recurrence of the conception in future. It can never be right to deliberately give life to a child who can never, as you know, live to the birth—to give a life which you are beforehand determined to destroy. It seems to me that an argument of that kind is the most disgraceful that can be put forward. If you are going to talk about circulating knowledge which makes unchastity safe, I ask you which is the most likely to cause unchastity—to allow such principles as these to be disseminated abroad, or to allow the publication of such checks as are advocated by Dr. Knowlton? Surely the latter are far less likely to do harm, and if knowledge of the ease with which the consequences of unchastity may be warded off is injurious to public morality, then how can you permit a book to be circulated which, as Dr. Churchill's does, gives a detailed account of the fashion in which abortion may be induced—means of which any woman, wicked enough to use them, might most easily avail herself? Another point worthy your consideration is taken from the *Obstetrical Journal*, which is sold at all the railway bookstalls at rs. 6d., and is published by Messrs. Churchill, the great medical booksellers of Burlington Street—a journal which is illustrated, and being so, when the jury see it, I think they will say it is far more likely to spread unchastity than is Knowlton's work. It says there, that in a case where it was found necessary to perform the Cæsarian section on a woman, "while absorbed in this operation it did not occur to anyone of us to so treat the fallopian tubes as to prevent a future conception." If

it is right for one doctor to go through that operation to prevent conception in a married woman, surely it is not wrong in another doctor to show a woman how the conception of too many children can be prevented. I must urge upon you that if you are going to pass a censure on me, and say that it is wrong and immoral to teach married women how to prevent conception, you really ought to take steps to pass a far stronger censure in cases where people are induced to conceive children which it is deliberately proposed to murder on bringing them into the world. I would ask the jury to make a particular note of that, and to remember it in dealing with their verdict. In other cases the doctor warns the father that the mother's health is so bad that the birth of another child is likely to kill her. What can you do? You cannot expect man and wife to live on as if divorced. What happens? Another child "comes," and the woman dies. Is it immoral to teach how the wife may live and yet not be divorced from her husband? There is another class of cases so often known that I need not dwell on them. You do not expect a young man to live an absolutely celibate life after marriage. If he does not, what happens? You get a strong man and a delicate woman. That which is necessary to the health of the man is fatal to the health of the woman. There are too many instances where the home is unhappy because the husband complains of the "coldness" of the wife, but this coldness is often not from lack of love, it comes simply from physical exhaustion. The consequence is that the man finds a kind of supplement to the home which is simply destructive of everything we wish to see in family life. I urge that it is not fair to bring against us a charge of obscenity, when you find that we are doing what we can to show men and women how to remain thoroughly loyal to each other without injury to the health of either, and so to enable one man and one woman to be thoroughly true to each other throughout the whole of their married life. We find that Dr. Knowlton puts forward these checks as "the only moral restraint to population" (p. 5) with which he is acquainted, but that would not prevent another doctor from presenting checks which are better than Dr. Knowlton's. It is for that that I am so anxious to gain a verdict. You will find a discussion going on in France as to these checks, and as to their effects on the health of the married, and it is a vital point to the happiness of the community that

doctors should be allowed to express their thoughts on this subject without the fear of a criminal prosecution, and that they should not be liable to be told that they were endeavouring to promote promiscuous intercourse between the sexes. That, gentlemen, is the first chapter of the book which is here incriminated, and I will ask you whether, on looking through that chapter, there is one single word which bears out the contention raised yesterday morning by the prosecution? Is there one word which shows that the writer is using the word marriage as the cover for something worse? Can you, from the beginning to the end of that chapter, honestly and fairly say that this is a cloak of physiology, this is a pretence of morality, put on to cover an immoral purpose, such as we are here charged with? That is dealing with the whole chapter; and I may again inquire, while I thoroughly bear in mind the ruling of my lord of yesterday, that you are not obliged to find obscenity in every page; yet, I think, my lord, I may fairly put it that some intent ought to be discoverable from this chapter, something which should lead you to think that the writer's purpose was an immoral one, for it seems unfair to brand a book as immoral unless it is so in intent and in purpose.

THE LORD CHIEF JUSTICE: Read by itself it might be an introduction to a Malthusian treatise.

Mrs. BESANT: Just so, my lord.

THE LORD CHIEF JUSTICE: The only way in which this chapter can be attacked is, by saying what is the conclusions to which it is intended to lead up, and then, from that conclusion, it may be argued that, although in form and *primâ facie* it is perfectly moral, yet that, from the conclusions it is intended to lead up to, a different construction might be put upon it. That was the argument of the Solicitor-General yesterday, and it is the only way in which this first chapter can be taken to mean anything else than what it says. Judging from what it says, it might be regarded as perfectly honest and perfectly pure. Take it by itself, and there is not a word in it which could be construed into any impropriety of expression or thought.

Mrs. BESANT: There are, on the contrary, my lord, a great many expressions which show a very earnest mind.

THE LORD CHIEF JUSTICE: It is perfectly open for you to argue that to the jury.

Mrs. BESANT: I do not propose, gentlemen, to read to you any more of this chapter.

THE LORD CHIEF JUSTICE : Will you not read the concluding paragraph to the jury ?

Mrs. BESANT : I feared, my lord, to take up more of the time of the Court than your lordship might think necessary for the proving of my case, and I did not wish to try too severely the kindness and patience shown me by the Court.

THE LORD CHIEF JUSTICE : The paragraph is very important, it seems to me, as touching the purpose of the pamphlet.

Mrs. BESANT : Thank you, my lord ; I will, then, gentlemen, just read the last paragraph of the chapter. " Inasmuch, then, as the scruples of incurring heavy responsibilities deter from forming moral connections, and encourage intemperance and prostitution, the knowledge which enables man to limit the number of his offspring would, in the present state of things, save much unhappiness, and prevent many crimes. Young persons, sincerely attached to each other, and who might wish to marry, would marry early, merely resolving not to become parents until prudence permitted it. The young man, instead of solitary toil and dissipation, would enjoy the society and the assistance of her he had chosen as his companion ; and the best years of life, whose pleasures never return, would not be squandered in riot, nor lost through mortification." Is that written, gentlemen, with intent to deprave and corrupt ?

The Court here adjourned for lunch.

Upon re-assembling, Mrs. BESANT continued : I take up the subject at the beginning of the second chapter, and it is only the first and the second paragraphs with which I propose to deal. The whole of the remainder of the chapter I propose to leave to my co-defendant, for I understand that any defence of his which is effectual will practically, if not quite in legal strictness, be taken to cover myself, and, with your lordship's permission and the consent of the jury, I think it would be pleasanter for all of us that I did not go through the whole of the details in this chapter.

THE LORD CHIEF JUSTICE made a motion of assent.

Mrs. BESANT : It will be pleasanter to let it come from my co-defendant, Mr. Bradlaugh, than from myself, so I will only take the first paragraphs of this chapter. I have only taken the liberty of putting it so, that one might not be thought to be shirking one's duty in the matter. It will be fully dealt with by my co-defendant. I go on then with page 9 of the

pamphlet and the first two paragraphs of Chapter II. I will take the paragraphs separately. Dr. Knowlton says: "I hold the following to be important and undeniable truths. That every man has a natural right both to receive and convey a knowledge of all the facts and discoveries of every art and science, excepting only such as may be secured to some particular person or persons by copyright or patent. That a physical truth, in its general effects, cannot be a moral evil. That no fact in physics or in morals ought to be concealed from the inquiring mind." The first half-dozen lines are not worth troubling you with, but I will take "that a physical truth cannot be a moral evil," and I may say that I thoroughly and entirely endorse that; that I hold that no physical knowledge, properly taught and properly understood, can for one moment be taken to be a moral evil; and I think here I may, perhaps, take leave to point out that the case in which your lordship and your learned brethren gave judgment—the case of the Queen *v.* Hicklin—in that case there were no physiological truths dealt with at all. In fact, that case has really no bearing of any kind on this present case, and has nothing in common with it. There is no kind of connection between a case where obscene matter is put forward, with the admission that it is obscene—matter that cannot be any good; because questions as to certain crimes can never be supposed to convey knowledge that may be useful to either man, woman, or child, and the questions there are all of the most—I was going to say—of the most disgusting character, without conveying one scrap of knowledge that could possibly be useful to any one, and it stands on an entirely different footing to the case where, rightly or wrongly, a pretence of medical knowledge or instruction is put forward. I say a "pretence," because it is said by the prosecution that it is only a pretence, and supposing it were so, nothing in the Queen *v.* Hicklin would touch this, because, in that case, there was no pretence made of any sort that knowledge useful to the community was sought to be given by the publication. (The Lord Chief Justice nodded assentingly.) Knowlton points out that no physical truth can be a moral evil. It is a point vital to me in this, that you should recognise the fact that no physical truth is in itself indecent. I do not mean that under cover of a physical fact indecent suggestions may not be made. I am bound to admit that they may be made under cover of physical knowledge, but I contend

that in itself no physical fact is an indecent fact. I will put it that that is especially and strongly shown by the whole action of our present Government. And speaking of governments, I do not mean, in any fashion, to raise a question of the particular Government with which my prosecutors are connected, or even for one moment to insinuate that the matter of party may lend a spirit of maliciousness to this prosecution. In the question of physiology, Whig, Tory, or Radical Government would, I think, act alike, in that of which I am going to speak. You will remember that the learned Solicitor-General said, that if this book were published in a medical room, or sold to medical students, it would not be indecent, but he contended it was obscene because it might be sold to boys and girls in the public streets, and he contended that practically a book, which to a medical man is a useful book, a decent book, a moral book, would become utterly obscene and utterly indecent the moment it was published in a girls' school, and placed in the hands of girls and boys. Now that, gentlemen, is a very important point. For I hold in my hand the directory authorised by the Government (and for the moment I remind you that the Solicitor-General, being a law officer of the Crown, may fairly be said to be bound by the acts of his Government). You will find, that at the present moment, the Tory Government—and I mean nothing here as against the Tory Government, for they are carrying on exactly the same system that was carried on by the Government preceding—in the directory that I hold here—this directory, my lord, is revised to August, 1873, and is the 28th edition, with regulations for establishing and conducting science schools and classes, and it is issued by the Science and Art Department, the Committee of the Council at South Kensington—it is printed by Eyre and Spottiswoode, whom you well know, gentlemen, as the Queen's printers, the authorised printers of blue books and Acts of Parliament, so that it comes before you with the whole authority that a Government can give to any publication. You will find that they issue a list of books in which they examine the young boys and young girls who present themselves for examination in the science classes in connection with South Kensington, and your lordship and the jury will be thoroughly well aware that these classes are not intended for adult men and women, but are intended for young boys and girls; and boys and girls, under the age

of sixteen years of age, are in the habit of attending them, and in the habit of going up for examination ; and you will find in the examination for honours, that candidates will be examined in any subject treated of in the standard English works upon physiology, such as Carpenter's "Principles of Human Physiology," Marshall's "Outlines of Human and Comparative Physiology," &c. You will find the Government putting into the hands of young girls, under the age of sixteen, as text-books : "Lessons in Elementary Physiology," by Huxley, "Human Physiology," by Carpenter, a "Handbook in Physiology," by Kirke, and another one by Marshall, in each of which they may be examined. Then in the syllabus, they are told that the knowledge of the candidates respecting anatomy and physiology will "be expected to be real and not mere book work," and that the candidates should be able to study the bones of the human skeleton, and also the soft parts, as well as the bones, of the higher domestic animals ; and you will find that it is very carefully put forward that they be examined on the whole of the system of reproduction, that they are to be thoroughly well acquainted with the structures and character of the male and female organs of reproduction, that they are to know (I will not trouble you here with the technical terms) the whole mode of development of the unborn being, and that right through they are to be prepared to put down in answers to an examination not only what Knowlton gives, but—in addition to that which is given by Knowlton as necessary for the point of which he treats—a whole mass of technical and of detailed physiological instruction, not about one sex alone ; and young girls of thirteen, fourteen, and fifteen, are by order of the Government instructed in every detail of the male organs of generation from beginning to end, not one point left out, and it is not dealt with in Carpenter and Kirke in the dry fashion in which Dr. Knowlton deals with it—mere dry physiological details ; it is dealt with, as you will see when my co-defendant speaks, in language which is calculated to arouse passion, because, while Knowlton carefully avoids one syllable which gives the outward form, the attraction which might be supposed to rouse passion ; while, for instance, he speaks of a girl gaining "a more womanly appearance," and says nothing more, you will find in Carpenter's, and in Kirke's books, put into the hands of children, at the express sanction of the Government, of which the Solicitor-General is an officer,

a detailed description of the attractive results of the development of a girl's form, going through every detail in a style that I should scarcely think it wise to put into the hands of those so young, and also speaking of the attractive influence these changes have on the opposite sex. By the authority of the Government these things are put into the hands of young girls and boys, and I ask you with what kind of decency is it that the Solicitor-General, an officer of the Government which authorises a list of books of that kind, comes here to prosecute us for putting into the hands of people and issuing a book, beside which their own books are, if physiology is obscene and if there is any measure in obscenity, immeasurably more obscene than the one for which I plead to-day? We can bring you the very people who have received these books as prizes for studies under the Government examinations. We can bring you a boy who received Carpenter's "Human Physiology;" and not only does Carpenter deal with the question in a manner beside which our book is the utmost extreme of delicacy, but Carpenter is illustrated with a number of plates, and when the jury see them—if they have not already dealt with the subject before—they will be astonished that with the authority of the Government such books are put into the hands of young boys and girls. For myself, I do not object that this should be done, but I do object that the Solicitor-General should say to you that this book circulated in a girls' school would be obscene, because if so it would be hardly consistent that such books as those I have mentioned should be placed in the hands of boys and girls under Government authority, and that, then, he should come here and try to rouse your virtuous indignation to pronounce as obscene that for which we plead.

THE LORD CHIEF JUSTICE : What classes do you mean?

Mrs. BESANT : The school and classes of science now held, my lord, at South Kensington, and the Government put forward a number of books which they require as text-books for the children to be examined in.

Mr. BRADLAUGH : In the larger directory, under the head of physiology, and in the small one, the instruction for the reproductive organs.

Mrs. BESANT : That is a point which is most important, because one would not like to accuse the Solicitor-General of acting an indignation before you that he did not thoroughly feel. We can only suppose, for a moment, that

he was utterly ignorant that the Government had done the very thing which he characterised as obscene, for I am sure all ties of party, if nothing else, would prevent a gentleman in open court from characterising the action of his colleagues in office as actions which were thoroughly obscene, and ought to be indicted at common law. I will claim that if you bring in a verdict against us it will only be fair that you should also sit in judgment upon my Lord Beaconsfield, my Lord Salisbury, and my Lord Derby, and that they should hold the same position we hold in court to-day, to answer for circulating books which are distinctly obscene, which we find them putting into the hands of young girls; and if you are going to fine us, or imprison us, or if you are going to give a verdict which shall make it the duty of the learned judge to sentence us to fine or imprisonment, you will remember that we have taken no steps to circulate these books in girls' schools at all; we have simply treated them in the ordinary way, with no special pressure, and have never, as the Government has done, issued special lists and offered special rewards for the preparing of young girls in them; we have made a point of putting it to married people, while the Government makes a point of putting it to young unmarried girls scarcely out of their childhood. And I hold so thoroughly that the Government is right in putting that information in the hands of boys and girls (and I am speaking to you here as the mother of a daughter for whose education you must at least suppose I have some care and some interest), that I say deliberately to you, as mother of a daughter whom I love, that I believe it will tend to her happiness in her future, as well as to her health, that she shall not have made to her that kind of mystery about sexual functions that every man and woman must know sooner or later; that I feel, with Dr. Acton, that it is better to give instruction honestly, decently, and carefully, than to allow it to be thrown into children by their experience of the world (possibly in a bad and evil way), and I put it distinctly that the Government is doing a service to the coming generation when it places in the hands of young boys and girls the exact physiological facts which we are seeking to spread among adults to-day. And further I put it that when this Government teaching has had its full course for a generation, this work of Knowlton's will not be wanted any longer. Unfortunately, the adults of the present time have not had the advantage of the instruction which the Government

is now giving to the young : when the young have been instructed in Carpenter, Kirke, and in other books of physiology, this little pamphlet will not be needed, because every scrap of information which is found in it, every line which you can point out as covering any sort of words which you may think to be obscene, will, as you will find from my co-defendant's speech, have been thoroughly covered by words put into the hands of children by the Government, and when they have been trained in this fashion there will be no need to circulate among them that for which we are now indicted. It is only because former Governments have not thought it their duty to circulate physiological knowledge that we are condemned for doing it ; it would be far better that people should gain that information from the mouths of professors in the schools and classes of science. Some 20 or 30 years hence Knowlton will no longer be required ; Government will have taken his position, and will have taught all he teaches, and when the coming generation have had the advantage of that training from men selected by the Government, then will there be no need to give them the physical truths which Knowlton wrote for a generation even more ignorant than the present. Further, not only is a physical truth no moral evil, but I will put it yet more broadly that no physical description in any fashion tends to arouse impure thoughts ; in fact, that it has exactly the opposite effect. Physiological knowledge tends to inspire so deep a reverence for the marvellous way in which Nature acts, for the fashion in which she evolves from the apparently most unlikely materials the most unexpected results, that physiological knowledge and teaching inspire a feeling for Nature of reverence so deep and intense that there is no room left for a coarse or an impure thought to enter into connection with the matter. There has been no coarseness attached to the reproductive system spread throughout the vegetable kingdom ; and if less mystery were made about the matter, if children were taught that, above all physical functions, they were bound to reverence and think carefully of, and dis sever from every element of indecency, that power whereby Nature crowns them with the power of giving new life—if you gave them information such as that, you would do away with the whole suggestion of indecency which hangs around it now. If, for a moment, you will think of the point with which I am dealing, you will acknowledge that in no sense can physiological knowledge be treated as

obscene. Think, for a moment, that every doctor who comes into your homes in time of trial or sickness is a man to whom every physiological detail of the frame is as familiar as possible: to a scientific man, or a medical man, there is no difference between one part of the body and another. There is no more thought of indecency in the mind of the student connected with the reproductive organs than is connected with the brain. It is simply that the course of habit has thrown over them a stigma of indecency which it is ours to try to remove by taking away that cover of ignorance which has covered them with curiosity. You find Dr. Acton pleading for that knowledge in language and expression which I cannot pretend to rival. He says that the whole attraction of impure literature simply gains its strength from the fact that people make a parade of concealment about the functions of Nature, thus giving them a factitious allurements that they never would have if they had been dealt with in a proper manner. So far from a book of this kind raising sexual passions, nothing can show more utter ignorance of mankind than to pretend that it were possible it should do so. If you were going to sit down to a special breakfast or dinner—and, if I were speaking within the confines of the city, I might say to a Lord Mayor's dinner, for you as citizens might have been there—you would not choose to stimulate your appetite with a dry physiological treatise on the digestive organs. It is very much the same with physiological treatises of the other kind. No man with an impure mind, who wants to rouse sexual passion, who wants in any way to give reins to his passion, will go carefully through dry details which, by the kind of thought they give, and by awakening the brain, utterly destroy all possibility of passion, as I am sure your own experience will tell you amongst medical men who make these things their study. Passing then from that, I will take the following paragraph: "Some," Dr. Knowlton says, "may make a misuse of knowledge; but that is their fault, and it is not right that one person should be deprived of knowledge, of spirits, of razors, or of anything else which is harmless in itself, and may be useful to him, because another may misuse it." That point, my lord, is a vital one in this instance, because it is urged, and has been urged in this presence, and urged very strongly outside the court (though I have no right to introduce that here); it has been urged here by the learned

Solicitor-General that while this pamphlet, if confined to married people, might do no harm, the danger of the pamphlet is that, while addressed to married people, amongst whom the knowledge is not injurious, it may fall into the hands of young people, and people who are unmarried, and may point out to young women especially (for young men do not seem to be taken into consideration on matters of this kind ; it is apparently allowed that they may be as fast or as objectionable as they choose)—it has been urged that young women of bad character really, but of good character outwardly, may find that they may become safely unchaste by the knowledge which is given to them by Knowlton. I have found very great stress laid upon that by the Solicitor-General, for he not only assured us that in publishing this pamphlet our intention was to destroy married life, and to promote promiscuous intercourse, and to make unchastity safe—he not only did us the honour to suppose that we should place ourselves in this dangerous position for nothing except for the pleasure of corrupting young girls—not only did he say that was our intent, but also that the book was specially calculated to point out to unmarried females the way in which they could be unchaste without the danger of discovery, which might otherwise arise. Now, for a moment, let me say that the misuse of knowledge does not make the knowledge bad ; using knowledge wrongly does not make the knowledge obscene ; the knowledge remains the same whether it be used or abused, and the fault of the misuse does not lie with the giver of the knowledge, it lies with the person who abuses the knowledge. I will lay that down as a principle which none will venture to dispute. Suppose you say that a knowledge of poisons enables the person who obtains it secretly to kill another, or to poison a family with a safety which he might not secure were it not for the knowledge, would you, because one person might sooner or later poison his neighbour, venture to say that a botanical book which gave all the properties of plants and included poisons, and which was found extremely useful in a medical sense—would you say that was a book calculated to injure the morals of society because it gave that necessary information, and at the same time enabled some one person to obtain knowledge which enabled him to administer a poison which was not discoverable by medical analysis? My lord pointed out to the learned Solicitor-General, I thought very fairly—it struck me as a very just point to be put by the

judge—he pointed out that in dealing with the word “obscene” it was not in any fashion necessary that the book should in itself contain language obscene and coarse ; on the contrary, he stated that you might, under the meaning of such an indictment as this, include words which would be calculated to deprave the morals of society, and that it was not merely whether the book was obscene in the common sense of the term, but whether its tendency was to vitiate public morality. And while for a moment that might be thought to be a remark which might have been directed somewhat unfavourably upon my co-defendant and myself, I yet so thoroughly felt that the learned judge was raising a point which ought to be put before you, that I felt almost grateful to him—if one could be grateful for a momentary disadvantage—for having raised the point. I think, however, that the point I put to you about a botanical treatise exactly covers the contention raised by the learned judge, for no one would pretend that the knowledge of poisons in a botanical book ought to be withheld from the public on the ground that that knowledge might tend to harm public morals by giving to already vicious people the knowledge that they might turn to a bad purpose. That is a point which I will take leave to submit to the learned judge and to the jury as clearly bearing on this case. And take that part to which I referred as dealt with in Churchill’s “Diseases of Women,” where knowledge as to the procuring abortion is given. It might be urged that that gave a power of harm, but even then you cannot limit medical thought and medical science by this argument, that people of impure and obscene minds may put a bad use on the knowledge which is given. In all knowledge you must get an increased power of harm as well as of good. It is the very condition of knowledge that you have the knowledge of good and evil side by side. You cannot say you will have the one thing without the other ; that is entirely beyond your choice, that you cannot have ; you must have the knowledge, and with the knowledge of good must necessarily, unfortunately, come also the knowledge of the abuse of what is good, that may fairly be taken as evil. And I put it to you that the argument against Knowlton because Knowlton may be misused is an argument which, if generally applied, would forbid any information to be published, and would make the only virtue of society consist in the utter ignorance of all its members. Take any case you like. Take knives,

for instance ; knives are sold, not for the purpose of cutting people's throats ; but, if you take the case of the sailors round the docks in Eastern London, you will find that every man there carries a clasp-knife in his pocket, and that it is very common for cases of stabbing to arise. The men do not carry the knives to stab their fellows with, they carry them to cut the rigging, among which their work lies, and they are very handy in that capacity ; but you find cases of stabbing arise with far greater frequency than they otherwise would, because the means of stabbing are ready in the pockets of the men whose passions are aroused. Are you going to forbid the use of knives among the sailors because some of them use their knives for the bad purpose of stabbing instead of for the good purpose of cutting the rigging of the vessels ? Are you going to forbid the use of guns because a poacher may misuse one to shoot a gamekeeper instead of using it for a legitimate purpose ? Do you mean to argue that taking the licence off guns is wrong because it enables more people to carry them ? Are you going to argue that ropes ought not to be sold in the public streets because a rope can be bought for 6d., and that that rope can be used by a murderer to hang his victim, and that you must not sell it because a murderer will find it so easy to buy a rope ? Look at lucifer matches. Fifty years ago, when lucifer matches were less common than they are now, it might have been urged that you should not sell lucifer matches among farm labourers because it would be so easy to set fire to farmers' ricks with them. With the old flint and steel it was not so easy to fire a rick as it is with lucifer matches, and clearly, therefore, you must not permit them amongst the agricultural population, because you put a power to injure into their hands that they would not possess if they kept to the old flint and steel. Gentlemen, that argument would never have been brought before you if it had not been that this is not a fair prosecution at all. This is simply a trumped up and malicious prosecution. This book has been in circulation for forty years, and now private spite and private malice have dragged it forward from the obscurity of the very small circulation which it had, and has given it a circulation of an enormous extent, which, otherwise, it never would have had. This prosecution has been made purely and distinctly out of private and party spite, and those who conduct the case are compelled to make up ridiculous arguments of this kind, and to read long quotations, in order to fill up the time for which they feel

compelled to speak to the jury. We have heard for this reason the whole of the preface on which I should almost be ready to rest my defence, and of which practically I am following out the lines. They talk of the harm which may ensue to one or two people, and so drag you into the belief of corruption that has no existence in the book, and was never in the minds of the people who published it. You are asked to prevent the circulation of this book because women and others may abuse the knowledge there given. The circulation of this book, if I may judge in any fashion from my own personal experience, is valued by poor men and women in all parts of the country (and I can't help remembering that the editor of the *Times* newspaper said that he judged the feeling of the country by the state of his letter bag in the morning). If the remark of the editor of the *Times* may be taken as a proof of the feeling of the country, then what you are asked to do is nothing less than to prevent the circulation of a book that may bring comfort to thousands of English homes, because one woman here and there may abuse the knowledge which it contains. Why, the knowledge is given in a variety of ways, as I shall be compelled to show you before I sit down. The very knowledge given in Knowlton's book is given in a book practically authorized by Government; I am referring to the report under the Royal Commission on the working of the Contagious Diseases' Acts, and you will find presently that the knowledge most objected to in Knowlton is given there, and it is sold by Messrs Longman, who are not medical publishers, at the price of one shilling. I will only now say that that is a book which, from its very title would attract those by whom the knowledge would be most likely to be misused. I put it to you, is it likely that this knowledge would increase unchastity among women? If you read the appendix—and I may say, though we have printed the appendix, we do not know who wrote it. We have printed it because it formed part of the book which was prosecuted before; and we felt bound to do so, in order to thoroughly challenge the verdict of the jury upon it—in the appendix you will find the argument I am alluding to very clearly put forward. Who this is written by, as I have said, I can't tell; but it was published in the columns of the *Boston Investigator*. If you will carefully glance over it, it will save your time, and I will not read it through, as I do not want to weary

you. [You will see that the objection put forward by some against diffusing the knowledge contained in the book is the fear that it would increase illegal connections ; and you will clearly remember that I put it to you this morning that the knowledge would have exactly a contrary effect, and it is here put that it is "an outrageous slander" to contend that women are preserved in chastity from the fear of the consequences that may result from the contrary. In this English court of justice need I argue for one single moment that English women are not only kept chaste from the fear of becoming mothers? To do that would be to insult your common-sense and to waste your time. I am sure you feel with me that the chastity of English women is maintained by a feeling purer and nobler than the mere fear of the shame and disgrace that might ensue from a motherhood which was unsanctioned by the law. The fact is, that anyone who could misuse the knowledge that is given here, is so far gone already that there is very little to gain by keeping this knowledge from her. If a woman has been so carried away by passion as to desire the book for purposes of passion, she will not be pushed any further by the possession of this knowledge. Fear, as you know too well, does not keep women chaste, and the only effect the book could have on a woman who, for one moment, contemplated the consequences which are spoken of by the prosecution, would be to dissuade her from her passion. The fact that the woman had the patience to wade through dry physiological details, to make the preparation that is in this book contemplated, shows that it is no longer a question of passion carrying her away, but a quiet and steady determination to go on the wrong path, which no amount of persuasion would keep her back from. If you are going to say that the mothers of England who seek for this knowledge, that those who plead to me to fight this question for them, are to be kept in ignorance because one woman here and there, already unchaste in thought, may become unchaste in act, I say you are sacrificing the many scarcely even for the benefit of the few. You are injuring the great majority of decent, modest, respectable women, who desire to have this knowledge, for the sake of one here and there whom no care on our part can prevent from getting the knowledge she desires. Do not think you can stop the knowledge by stopping this book. There are plenty of books, unfortunately, of a very different character,

from which those who desire to be unchaste can gain their knowledge. This book will not help them, for Knowlton warns them too sternly against the evils of unchastity. He tells them too much of the dangers that result from unchastity, too much of the dangers that come from excess. Put the book into the hands of man or woman who is known to be running wild in this matter, and you will find that the dangers pointed out in the book will frighten them back and destroy the charm of the temptations which they feel. You will never do harm with a book like that; there are too many books to which they may turn on the matter for them to go to a dry book like Knowlton's. I put it to you now, as I do not propose to carry on this chapter further, that it is the mothers of families, as a matter of fact, who express so keen an interest in this book; and if we had been so fortunate, as naturally we have not been, as to have had the pleasure of seeing any of you, or the learned judge, at any of the meetings which have been held on the subject, you would have marked one very curious point—that the whole audience, except the very smallest minority, was composed of the rather more than middle-aged, somewhat hard-featured, men and women, who certainly would not have been drawn there from any feeling of prurient curiosity, but were simply drawn there by feeling the pressure of their need to know something more than they did at the present time, to learn how they might preserve their children from the sufferings they had themselves undergone. If it were in any degree admissible—and I do not think it is—I believe that the learned judge would feel it his duty to stop me if I brought here in evidence a large mass of letters from women of all classes which I have received: as a mere point of law I might read them one after another, but I think, to do that would be to shelter myself under a point of law which it would not be fair to raise; for though the learned judge said yesterday that he could not prevent my learning a quotation by heart, and reciting it as part of my speech, and therefore could not prevent me from reading, yet I do not want to weary either the judge or the jury with any unfair amount of matter of that kind. I will therefore, only put it to you shortly that amongst these letters, some of them of the most touching character—letters, gentlemen, that however much you might be prejudiced against me, you could not hear me read without being touched by the tone of their contents—letters of women who have had nine,

ten, or twelve children, imploring me to save their daughters from going through their own deplorable and terrible experience. You would feel, had you seen these letters, that even a man in the rank in the law of the learned counsel for the prosecution, who stands up and puts the taint of obscenity on my intent, simply insults your common sense, and makes a verdict given in favour of the prosecution an entire impossibility to be given consistently with your conscience. You will find a mass of letters coming from those who have had this book in early life, and who have experienced the benefits of the work. One I have particularly in my mind at the present moment, from a certain station-master in Scotland, who says that his wife, almost dying after her last confinement, the whole future of their lives looked black and gloomy. Some mere chance threw this 6d. pamphlet into their hands, when it was published by James Watson. He tells how they read the book; how they acted upon it; how his wife grew strong and healthy, and how, at the present time, years afterwards, they are looking forward to an addition to their family with a pleasure they would never have been able to experience had they not had this book. You may think that in a matter of this kind, I somewhat overdraw it, and that I lay too much stress on a mere 6d. pamphlet, but if you knew the feeling about it, the earnestness, the intensity with which men and women look upon this question, you would not wonder at my zeal. Those who read a book for the sake of the impurity contained in it will not find this pamphlet attractive to them, It is circulated amongst those who need its teachings, and it is those for whom I plead. I acknowledge that medical periodicals may be read for a most impure purpose by impure minds; I acknowledge that the *Lancet*, which is published at all the railway bookstalls, that the *Medical Observer*, which is sold on the Metropolitan Railway, I acknowledge that all these works may be read for impure purposes by impure minds; but that is no reason why this book, or those journals, should be suppressed, because the impure gets from them the knowledge which he would certainly get in some other way if he did not get it through these. That is no reason why earnest and respectable people should not obtain the knowledge which may contribute to their married happiness. The rest of this chapter I propose to pass right over, and to leave to my co-defendant. I stop for one moment on pages 31,

32, and 33, which I shall not read, only asking you to glance at the subject-matter: but I want first to make a general remark on this chapter; the learned Solicitor-General, doubtless through utter ignorance of medical science, used an expression in dealing with this chapter which is calculated to mislead you. He pointed out to you, I don't know whether he intended you to read the book or not, or whether he took the point for granted, that this book dealt not only with the reproductive organs but also with the external forms. The word "external," if you had not read the book, would convey an utterly false idea to you; "external" and "internal," used as medical terms in the ordinary medical division, were pointed out to you as evidence of indecency. The word "external" used as the Solicitor-General used it, conveyed an utterly false impression which there is nothing in the book to cover. When you come to deal with Carpenter you will find expressions which do convey indecent impressions to indecent minds, but you will not find anything here to justify the idea the learned Solicitor-General conveyed. I trust he did that under a mistake, and made a suggestion he will regret. I will now put to you another point which my co-defendant will put to you more fully: the Solicitor-General inferred that the indecency of the publication was increased because it only dealt with one sex and not with the other. The suggestion was most unwarranted. Knowlton only deals with the physiological details which are necessary for the application of his arguments. He does not deal with the other sex any further than is absolutely needful, and for the learned Solicitor-General to put as a suggestion of indecency what is simply a delicacy on the part of Knowlton is most utterly unjust. I ask you to remember, as I do not doubt you will have more fully impressed upon you than I will venture to do, that what is really a proof of the delicacy of Knowlton's work the Solicitor-General tries to turn into a suggestion of its complete indecency. Now I will refer you to pages 31, 32, and 33 for a special reason, but shall have here to put in evidence a book by Dr. Chavasse called "Advice to a Wife," and another book by Dr. Bull, called "Advice to a Mother." The two books are exactly the same in character, and they deal throughout with the whole of the questions which affect a married women from her marriage day. The only difference between Knowlton

and these books is that both Chavasse and Bull and are far more detailed in their descriptions. They give a large number of stories to make their works read pleasantly instead of writing a mere dry treatise like that of Knowlton. I put it to you, as to the information given in those pages which are objected to by the prosecution, that the value of the information to a young married woman cannot be over-estimated. So great is the truth of this that you will find that many medical men, of careful delicacy of mind, give these books to young married women who are their patients, for the very purpose of avoiding the necessity of going into many personal details which otherwise they would be compelled to deal with. I am speaking here from my own personal experience, because when I was first married my own doctor gave me the work of Chavasse, on the ground that it was better for a woman to read the medical details than it was for her to have to apply to one of the opposite sex to settle matters which did not need to be dealt with by the doctor; practically these pages in Knowlton's work are a very short and very careful summary of the subject dealt with by Chavasse and Bull: where you have got to deal with a sixpenny book you must summarise the details. Many a young married woman does not like to apply to a medical man on many points that may arise; she sometimes does herself serious harm, and perhaps brings on miscarriage, and lays the foundation of future ill-health; or she sometimes thinks herself seriously ill when no real disease exists; these pages are simply invaluable to a woman, and they give to a poor woman for sixpence that which a richer woman can buy for five or six shillings. I will ask you whether for one moment, seeing that these books are both sold by a member of Her Majesty's Government, that they are not sold with any restrictions, that they are sold on railway bookstalls, whether, if any blame is to rest upon us because we publish a short quietly worded treatise on that which others publish far more warmly worded, no blame is to rest on them? Surely English justice, whatever your opinion may be, common English justice compels you, if you bring a verdict of guilty against us, to at once institute a prosecution against Mr. Smith, who is one of Her Majesty's Government, for circulating amongst the higher classes at 2s. 6d. a work which you say is indecent when circulated amongst the poorer classes at 6d. The point as to the use of these books seems

to me so thoroughly pertinent, that I will here quote to you what Dr. Bull puts in issuing this work; in his preface he says: "In the minds of married women, and especially in young females, those feelings of delicacy naturally and commendably exist which prevent a full disclosure of their circumstances when they find it necessary to consult their medical advisers. To meet this difficulty, as well as to counteract the ill-advised suggestions of ignorant persons during the period of confinement—are the chief objects of the following pages." This book is now edited by Dr. Parker, who has edited the work since the death of Dr. Bull. The same remark also applies to another part of the book (pp. 15 and 16), where you will find a number of remarks objected to by the prosecution. You will also find, when my co-defendant comes to speak, that all its details are collected from books whose circulation has never been interfered with, and that the only difference between Chavasse and Knowlton is that Knowlton is dry and very brief when compared side by side with Chavasse and Bull, both of whom use a large amount of what is called "literary padding." Once more I shall have to ask you to look at the book itself for one moment, and refer to pages 34, 35, 36, and 37; these pages deal with cases of sterility and impotence, and the Lord Chief Justice—I thought very wisely—pointed out to the learned Solicitor-General that, in dealing with sterility, any man who could give some cure which would remove sterility might fairly be described as a benefactor to the human race. As this point has already come from the Bench as an expression of opinion, I do not think I need trouble you with any argument on it. Knowlton, in dealing with it has dealt with it thoroughly within the bounds of his subject, and has not included any unnecessary information, but has only given that which it was his duty to include in order that he might be understood by those for whom he wrote. The remedies are here very much the same as those which are approved of in the other medical books; but suppose they were not, suppose that there was anything in the suggestion of the learned counsel against one remedy—difference of remedy, surely, cannot constitute obscenity in medical works; when the remedies which are proposed are different they may be matters of discussion amongst those who are qualified to discuss the question, but it cannot be pretended that one remedy is a remedy that can be de-

fended as decent and the other one condemned as obscene ; that in the mere language in which they are advocated there is nothing, which, to a well-regulated mind, could suggest indecency, has already been allowed. I would draw your special attention to pages 36 and 37 as showing the intent of Knowlton in writing. He puts there the very point which the learned judge raised yesterday morning. He says that "Impotency, at a young or middle age, and in some situations especially, is certainly a serious misfortune to say the least of it. The whole evil by no means consists in every case, in the loss of a source of pleasure. All young people ought to be apprised of the causes of it—causes which in many instances greatly lessen one's ability of giving and receiving that pleasure which is the root of domestic happiness. I shall allude to one cause, that of premature, and especially solitary gratification, in another place. Intemperance in the use of spirits is another powerful cause. Even a moderate use of spirits, and also of tobacco, in any form, have some effect. It is a law of the animal economy, that no one part of the system can be stimulated or excited, without an expense of vitality, as it is termed. That part which is stimulated draws the energy from other parts." Gentlemen, I ask you whether that is the kind of language that would be used by a man writing with intent to corrupt ? And now I will ask you to look at page 37, on which I will call your attention to the following passage:—"As to the remedies for impotency, they are much the same as for sterility. It is of the first importance that the mind be relieved from all care and anxiety. The general health is to be improved by temperance, proper exercise in the open air, cheerful company, change of scenery, or some occupation to divert the mind without requiring much exercise of it ; nourishing food of easy digestion ; flannel worn next to the skin. The cold bath may be tried, and if it be followed by agreeable feelings, it will do good."

I will only ask you whether any possible remedies could show more common sense or less desire to deprave or corrupt the minds of the young. Knowlton simply gives that knowledge which it is to the benefit of men and women to possess, and nothing can be stronger than this chapter to show that he was guided by good and pure motives. This curse of sterility is so great a curse upon married people, that any man who, for 6d., can point out the way to avoid it, may be taken, as my lord said, to be a benefactor of the

human race. The remainder of the chapter deals with checks to population, with which, as I said at the beginning of my address, I propose to leave it to my co-defendant to deal. The whole of this remainder was read out by the learned Solicitor-General, and he put it to you that he read it with a large amount of pain. If it pained him so very much, I do not quite know why he should have read it as he did, because, as you all, every member of the jury, and your lordship, had the book before you, the extreme delicacy of the learned counsel might have excused him from a task he said was so painful.

THE LORD CHIEF JUSTICE: The learned Solicitor-General is not here, and I think you must be just to him. He was rather challenged to read them.

Mrs. BESANT: Do you think that I ought to be gentle with him, my lord, as he is absent? (Laughter.)

THE LORD CHIEF JUSTICE: What I said was, that you must be just to him.

Mrs. BESANT: I did not mean to be unjust to him, my lord.

THE LORD CHIEF JUSTICE: I said he was called upon to read the passages. I thought it fairer to you that he should point out the passages upon which he relied, and upon which he will rely by-and-by, when he comes to address the Court.

Mrs. BESANT: That is quite fair; but I thought, if he felt so very much pain, he might have avoided the special anguish of mind he seems to have had in dealing with these passages. I will not press the point any further, however, as the learned counsel is not here. I do feel the position is especially painful for him, because, if he does not get a verdict against a woman, it does make the position of a learned counsel very painful. (A laugh.)

THE LORD CHIEF JUSTICE: You have gone through this long—and, I must say, very able—address up to the present without saying anything that could be regarded as painful or offensive to any one.

Mrs. BESANT: And I will try to do so to the end. My feelings towards the Solicitor shall be more charitable than his were to me, for he accused me of some of the vilest things a woman could do. But I will not press the matter further, and perhaps, by not too roughly defending myself against him, I shall make my case the stronger. I do not say these checks pointed out by Knowlton are the best pos-

sible ; but, if they are not, that is a question which should be left to the discussion of medical men. Dr. Knowlton himself is a man of immense learning and culture, and, at any rate, his opinion is entitled to a respectful hearing. If his views are considered erroneous, the proper course is to write a pamphlet pointing out where Knowlton is wrong, and not to bring in this system of police supervision. There is now only one single piece more in this chapter that I shall trouble at all to draw your attention to, and you will perhaps kindly excuse me from reading it. I do not know whether I shall be in order if, instead of reading it, I hand the passage to your lordship.

HIS LORDSHIP : What is it ?

Mrs. BESANT : It is a passage from the files of evidence taken before the Contagious Diseases Commissioners ; and it is simply a special point that covers much in Knowlton.

THE LORD CHIEF JUSTICE : If it is anything you would rather not read, you can leave it to your co-defendant.

Mrs. BESANT : Very well, my lord ; then I will only say that it instructs unmarried people to use one of the checks given by Knowlton. I do not propose to deal further with the third chapter. All in that chapter that has given offence you will find put forward in other books, but I do not propose to deal with the details of it in any way. I understand this supposed objectionable portion is confined to three pages and a quarter, and if the object of the book is bad and immoral, then the whole of the remainder must be supposed to lead up to these three pages and a bit ; but this can scarcely be contended to be the case. The whole object of the book is to promote marriage, and to teach temperance to those who are married, and it is utterly wrong that you should judge from these three pages, instead of from the rest of the book, which is manifestly good and manifestly pure. I come now to the fourth chapter, in some respects the most valuable in the book, a chapter which is its own defence almost more strongly than anything I can say will make it. You find Knowlton putting forward a quotation from Mr. Robert Dale Owen on the reproductive instinct : " Controlled by reason," he says, " and chastened by good feeling, it gives to social intercourse much of its charm and zest, but directed by selfishness or governed by force it is prolific of misery and degradation. In itself, it appears to be the most social and least selfish of all instincts. It fits

us to give even while receiving pleasure, and among cultivated beings the former power is even more highly valued than the latter. Not one of our instincts perhaps affords larger scope for the exercise of disinterestedness or fitter play for the best moral feelings of our race. Not one gives birth to relations more gentle, more humanising and endearing, not one lies more immediately at the root of the kindest charities and most generous impulses that honour and bless human nature. It is a much more noble, because less purely selfish, instinct than hunger or thirst. It is an instinct that entwines itself around the warmest feelings and best affections of the heart." You will observe that it is not as the Solicitor General put it, as if this instinct were to be unrestrained, but that it is to be "controlled by reason, and chastened by good feeling." And I think that one may fairly put it to you that no more elevating idea of love, regarded as a physical passion, can possibly be put forward than is put forward here. In the next paragraph Dr. Knowlton says: "But too frequently its strength, together with a want of moral culture, is such that it is not 'controlled by reason;' and, consequently, from time immemorial, it has been gratified, either in a mischievous manner, or to such an intemperate degree, or under such improper circumstances, as to give rise to an incalculable amount of human misery." That paragraph points out the mischief that may come from sexual intercourse, and the chapter goes on to show how that mischief may be avoided. I am utterly at a loss to understand how it can be suggested by the prosecution that a part of this book gives encouragement to a loose way of thinking, when the rest of the book is so distinctly against intemperance. In the following paragraph Dr. Knowlton goes on to deal, I think fairly from a medical point of view, with some of the evil consequences that arise from this instinct under the present state of things. Some of these consequences he says it is the business of the "moralist to point out, whilst of others it [falls within the province of the physician to treat." He complains that "physicians have hitherto fallen far short of giving those instructions concerning this instinct which its importance demands. In books, pamphlets, journals, &c., they have laid much before the public respecting eating, drinking, bathing, lacing, air, exercise, &c., but have passed by the still more important subject now before us, giving only here and there some faint allusion to

it." Dr. Knowlton wrote to that effect some three-and-forty years ago, but since that time many medical works of a similar character have been published, so that Knowlton's complaint would no longer be real. Dr. Knowlton then goes on to say that "true philosophy dictates that this and all other appetites should be so gratified as will most conduce to human happiness—not merely the happiness attending the gratification of one of the senses, but all the senses—not merely sensual happiness, but intellectual—not merely the happiness of the individual, but of the human family." Taking that position, I will simply ask you whether you think that is the attitude of a man who wishes to degrade the tone of society, and do harm to the morals of the young. The next paragraph I will not read through. It is the paragraph commencing at the foot of page 42 and finishing on page 43. But I may point out that whilst it is said that this pamphlet encourages young lads of seventeen or eighteen to ruin their health by premature indulgence, yet in this paragraph Dr. Knowlton points out that early intercourse means ruin to their health when they come to later years. The next point in the paragraph that I would suggest as extremely useful is that he points out that the marriage ceremony ought not to remove all restraint to indulgence, or do away with the necessity of temperance. He points out how much harm many young people have caused themselves to suffer, because they utterly disregard, after marriage, all those restraints which all moral people observed before marriage. In the last paragraph of page 43 Dr. Knowlton shows that "temperance in this thing is not to be decided by numbers, but that it depends on circumstances; and what would be temperance in one may be intemperance in another. And with respect to an individual, too, what he might enjoy with impunity were he a labouring man, or a man whose business required but little mental exercise, would, were he a student, unfit him for the successful prosecution of his studies. Intemperance in the gratification of this instinct has a tendency to lead to intemperance in the use of ardent spirits. The languor, depression of spirits, in some instances the weakness and want of appetite induced by intemperate gratification, call loudly for some stimulus, and give a relish for spirits. Thus the individual is led to drink. This influences the blood, the passions, and leads to further indulgence. This again calls for more spirits, and thus two vicious habits are commenced which

mutually increase each other." Now I ask you whether that is the language of an immoral or sensually minded man? Is it not true that in these words he very shortly but clearly points out to married people that they must continue their self-restraint right through life, and that the harm that may be done by lacking self-restraint may lead them to intemperance, which in its turn will re-act again and so make utterly miserable the whole of their lives. I put that to you as utterly destroying the idea that the book was written for the purpose of corrupting morals; I urge that this charge cannot be maintained against Dr. Knowlton, and therefore cannot be maintained against those who have published his work. The succeeding paragraph is of exactly the same character, and I do not think that any advice can be purer or more temperate, or more utterly apart from any desire to corrupt than his advice to the married people whom he is addressing—no advice could be more moral, more beneficial, more wholesome, more free from any intention to corrupt than that contained in these passages. Gentlemen, what is Dr. Knowlton's intention and object? Take this chapter—the last paragraph in which I do not read because it has been read already—and we see that his purpose is to promote marriage, and to restrain intemperance. He is charged with writing a bad book with impure intent. But a man of impure intent does not speak against profligacy; a man of impure intent does not speak in favour of marriage; a man of impure intent does not urge temperance after marriage as well as before it; nor does such a man plead for self-restraint as we find Dr. Knowlton doing. The very idea of bad intent—and bad intent is the essence of the charge against which I plead—the very idea is a monstrous idea, and not one shadow of proof has been brought forward which will show you in what Dr. Knowlton's bad intent consisted. It is said that Dr. Knowlton was actuated by a bad intent, but it is not shown in any way how that bad intention appears in this pamphlet. But an objection has been raised to its price. I have now finished what I want to say about the book itself, and I now come to the question of price, which has been made the subject of hostile comment. I think I may fairly put it to you—as was almost suggested by the learned judge himself—that if a book is not obscene in itself, the price will not make it obscene. Its low price is part of the value of the book to

us, because a book at a high price could not reach those poor people in whom we are specially interested at the present moment ; the poor cottager, the labourer, the artisan,—those, in short, whom Mr. Montagu Cookson desired to reach—cannot possibly be reached and taught how to proportion “their families to their room” except by means of low-priced books. They might get all this from Dr. Churchill, Dr. Acton, Dr. Marion Sims, if they could obtain them ; but all these books are dear, and it is simply mockery to offer poor people books at 30s. or two guineas each. It is said that we sell a book for sixpence to anybody, and that somebody might desire to read it “from curiosity or morbid appetite ;” but I will put it that it is not fair to put a bad motive into the minds of people who are desirous of reading a certain medical book. It does not follow that people who can only afford to spend sixpence on a book have a desire to gain a bad knowledge with their money. But if the price of this book is really an objection, then it does not stand alone. Take the *Lancet*, a paper which contains medical details beside which Knowlton is chaste in the extreme. The *Lancet* is sold openly on the bookstalls at 7d. to anyone who chooses to buy it. The *Medical Observer* is sold for threepence—just half the price of Knowlton. That journal contains medical details of what would be called by the prosecution the most obscene character. Then there is the *Obstetrical Journal*, published at 1s. 6d., and bearing on its cover a special advertisement of a book on this very subject at 3s. 6d. By what reason, by what argument, by what logic are you asked to suppress Knowlton because he is sold at 6d., when these books remain unchallenged, some sold at 3d., some at 7d.? The price cannot make a book obscene. If it is not obscene at a high price, it will not be obscene when sold at 6d. We must remember that cheap knowledge is one of the great glories of the day ; and such firms as Messrs. Cassell, Petter, and Galpin have made their names famous just because they have put before the world useful books at a price within the reach of everybody. I will ask you not to allow it to go out from this court as the verdict of twelve English jurymen that you measure indecency by the price at which it may be bought, and that you would allow that to pass at a high price which you count worthy of condemnation at a low. Then we are told that the book is being sown broadcast over London ; but why is that?

The book never would have been spread over London had it not been for this prosecution. Seven hundred copies a year was its circulation before this most ill-judged and most ill-advised prosecution had given the book an importance it did not deserve. This prosecution has given the book a factitious importance, because people fancied that when such a large amount of legal talent was brought against it there must be something in it to induce people to buy it. It has been put to you that if medical works were published generally to the public the publishers would be indictable, but I scarcely think the learned judge will allow that that is a fair construction of the law, because every medical book we have here to-day is published generally. There is no restriction in the sale of medical works. Anyone can go to Messrs. Churchill for a copy of any book, and no question will be asked except "have you the money?" There is no such thing as restriction of the sale of medical works. If a book is printed for private circulation only, that is a different matter; there may be no publication then, because there is no sale; but if the book is once published there can be no pretence raised that it is restricted in its circulation. The enormous number of these medical works published shows that they cannot have been in any way restricted in their sale, for they have been circulated by tens of thousands. But even though the sale were restricted—as it is not—medical works, if obscene at all, would be quite as obscene in the lecture-room as in the street. And provided they are sold, and generally published, I do not see that the price at which they are sold at all touches the question of their obscenity. Nay, the very fact that we have got these medical works here to-day is proof that they are generally published. I do not think Mr. Bradlaugh has himself bought any of them, but they have been bought by Mr. Parris, who is not a doctor, by Mr. Wells, who is still a youth, and one or two by myself. When I happened to want to buy an edition of Bull I simply wrote to Messrs. Longman for it and got it; they never dreamt of making any inquiry, but simply treated it as a matter of business, fastened the book up and sent it through the post. If general publication makes a work of this kind obscene we ask you, why we should be specially singled out for prosecution, why this one book should be specially taken up? When Mr. Smith is in the box he will tell you there is no restriction placed upon these books; he will tell you that

their own agent at Paddington sold the book to me and would sell it to anybody and never dream of making any difficulty of any kind. And he will also tell you that the sale of this book has been enhanced by the course taken by this prosecution. The sale of Knowlton has increased enormously during the last three months. Instead of the 700 copies published in one year before the prosecution, about 125,000 copies have been sold in three months. The book undoubtedly has circulated largely in all directions, and we have allowed it to do so believing that we were right in defending its free circulation. To have stopped it, it appeared to us, would have been an act which might very justly have been construed into an acknowledgement, on our part, of guilt ; and therefore, I say frankly, we have not tried to stop the sale of it. I openly state to you that we have let the book go its own way, and whilst, on the one hand, we have not taken the trouble of advertising, we have, on the other hand, put no difficulties in its way. We did, however, stop the sale of it at our own place of business. Not that we feared the consequences of selling it ; but because we did not wish our shop-people to be subjected to the same annoyance that we have been subjected to. We stopped the sale of it over the counter at Stonecutter Street ; and we have stopped also the supply to the hawkers in the streets, for the simple reason that we did not like their manners and customs. Notwithstanding that, however, the sale has risen since the proceedings taken against us by the prosecution from 700 a year to 125,000 in three months. That is one of the effects of trying in a free country to stop the sale of a book which has been uninterruptedly sold to the public for forty-three years. If, gentlemen, we win your verdict, the book will find its own level. Do not understand me to pretend to say that there is anything specially valuable in Knowlton himself that will cause his book to live long ; far from it, and I, for one, shall not, after an acquittal, care to sell another copy of it. We only want to make the right for others to sell it freely to whoever desires to buy it. We do not desire to make a gain, and we knew when we were selling it that we were running a risk which no money gain would compensate. We felt that it was necessary to raise the question of the right to sell the work ; that we have done, and now, if we obtain your verdict, our interest in the pamphlet ceases. The

moment your verdict is returned in our favour, that moment anyone can publish it. It will find its own level as a work out of date ; but the great question we are fighting is one of liberty of publication, and we ask you by your verdict to say that there is a right to sell all honest thought honestly expressed. That is the point I put to you. I do not, however, pretend to say or think that if we fail to-day—although I think that an impossible result—that then the circulation will cease ; because I think the feeling in this country on the subject is so strong, that if we are convicted and punished, you would find it necessary to institute innumerable prosecutions against persons who entertain our views on this subject. And now I would ask you, gentlemen, in concluding the remarks which I have thought it right to put before you, and in thanking you for the extreme patience you have exhibited in listening to me throughout what I know has been a very long address, I would ask you, in dealing with your verdict, to consider that you have not only to deal with the two defendants now standing here to take their deliverance at your hands, but with that great public feeling of England, which by no other means can so rapidly be raised as by any interference with the liberty of the press. It is not only the question of the publication of an obscene book that brings us here to-day. Had it been so there would have been no necessity to have occupied the time and attention of my lord and of you, gentlemen. Had that been the only question the whole matter would have been very quickly settled, and my co-defendant and myself would have been dealt with at the Old Bailey. It was with a feeling that such a work as the present had no right to be made the subject of a criminal prosecution, that we determined to avail ourselves of the right which a free English justice gives us, of coming into this court and pleading here in defence of our cause, knowing, as we do, that thousands of the English people think us right. Under those circumstances, I do not know how you, gentlemen, will reconcile it to your consciences to bring in a verdict of guilty against us, a verdict which means that the work of Dr. Knowlton is one of a most disgraceful kind. And I now leave the matter in your hands, with every confidence, leaving the remainder of my case in the hands of my co-defendant, knowing that his defence really, though not technically, will cover mine, with the addition of the evidence of skilled witnesses, who

will tell you, not their opinions, but their experience, and who will indorse the points I have put to you. I fairly put it that unless you honestly believe that my whole speech to you has been one mass of falsehoods ; unless you believe my intent to be a bad intent ; unless you believe I have been deliberately deceiving you throughout, and stand here before you in the very worst character a woman could take upon herself, namely, that of striving to corrupt the morals of the young under the false pretence of purity here put forward, and unless you think that, for the after-part of my life, I deserve to pass through it with the brand upon me that twelve gentlemen, after all patience, thought, not only that the book was a mistake, the opinions wrong, and the arguments unconvincing, but, in the terrible language of the indictment, that I am guilty of “ wickedly devising and contriving as much as in me lay to vitiate and corrupt the morals of youth ” as well as of others,—unless, I say, you believe that that has been my object and purpose, on this indictment, I shall call upon you, gentlemen, to return a verdict of “ Not Guilty,” and to send me home free, believing from my heart and conscience that I have been guilty only of doing that which I ought to do in grappling honestly with a matter I consider myself justified in grappling with—that terrible poverty and misery which is around us on every hand. Unless you are prepared, gentlemen, to brand me with malicious meaning, I ask you, as an English woman, for that justice which it is not impossible to expect at the hands of Englishmen—I ask you to give me a verdict of “ Not Guilty,” and to send me home unstained.

The conclusion of the address was received with applause, which the officers of the court suppressed.

Mr. Bradlaugh then proceeded to open his case. Addressing the Bench,

MR. BRADLAUGH said : Before I commence my opening to the jury I have again to trouble your lordship, as to the indictment, and I hope, after your lordship’s intimation of yesterday morning, you will not think I do so unduly or disrespectfully. I only want to preserve what I think are my legal rights.

THE LORD CHIEF JUSTICE : I cannot deal with that. I have told you I will reserve that point if necessary.

MR. BRADLAUGH : The only doubt is this, my lord. I have been looking at the case of the Queen *v.* Goldsmith ; but if your lordship will reserve any rights—

The LORD CHIEF JUSTICE: I have told you I will, already.

MR. BRADLAUGH: Then, my lord, I will not press the matter any further. There is, however, a very strong dictum of Lord Chief Justice Bovill in the case of the Queen *v.* Goldsmith I should have liked your lordship to have seen. I trust your lordship will not think I wish in any fashion to trespass on the Court, but there is another case I would wish your lordship to take a note of. It is the case of the King *v.* James, reported in Cox's "Criminal Cases," vol. 12, page 127, and I will not trouble your lordship one word more, the points being reserved to myself and co-defendant.

My lord and gentlemen, I feel the grave responsibility that rests upon me in this case the more because I know that any want of tact in speaking upon the extremely delicate matters which I shall have to deal with may probably tend to damage my co-defendant, who has so ably, and if his lordship will permit me to say, so modestly, but earnestly put her case before you; and I will ask you to dismiss from your minds in the beginning the whole of the references made by the learned Solicitor-General to some other proceedings which may have been taken in some other place against this pamphlet or some pamphlet similar to it. It was laid down in the case of the King *v.* Drakard, Howell's "State Trials," vol. 31, page 534, where it was sought to plead the acquittal of a defendant indicted for publishing a similar libel to the one alleged against Drakard, that any evidence of such acquittal was not admissible—that one jury was not bound by the verdict of another jury, and that each jury was equally capable of judging of the merit of any case submitted to it; and I draw your attention to that lest you should think that some judgment which was alluded to by the learned Solicitor-General, but of which no sort of evidence was or could have been tendered in this case, ought to influence you; and lest you should think that that judgment ought to have any practical effect on your verdict here. I ask you, therefore, to utterly discard the learned Solicitor-General's statement. I will now beg you to consider the indictment on which you are asked to pass your verdict against us. The indictment in effect is for publishing an alleged obscene book, and, as has been pointed out by my co-defendant, there is no statutory definition whatever of the word obscene. In the 20th and 21st Victoria, known as Lord Campbell's Act, there is a reference there to books which are described as obscene books, and if one wanted

to gather what was meant by the word obscene one would try to do so by examining the explanation which was given by the learned judges themselves in debating that statute. In the debate in the House of Lords which took place on the moving for the second reading of the statute under which the seizure warrants are issued against obscene books, Lord Campbell gave the definition already read to you by my co-defendant ; but I shall have to trouble you at a little more length on the subject of that definition and debate, for I am going to submit to my lord and to you that we are indicted under the common law, and that common law is common usage, and that there never has been an indictment tried out under the common law against a work similar to this. I shall show the character of works usually known as obscene to be entirely different to the one under prosecution, and that fair physiological treatises of whatever price and however widely circulated and published, either by laymen or physicians, are not and ought not to be considered as obscene works. I have one difficulty to contend with in this case, and that is that this is the first instance of a prosecution for alleged obscene libel where the publisher has stepped forward and said the book is not obscene. Sometimes the defendants have denied the publication, sometimes pleaded ignorance of the contents. We make no denial of the publication of the pamphlet ; we come here admitting that we published it, knowing every line in it, and we say that we believe it not to be obscene. And I hope that before I conclude this speech I shall succeed in showing you that there is not a line or a word in this book which can be fairly or properly put as being of an obscene character. That much may be unfamiliar to you, I can well conceive, for when my attention was first called to this book in my own judgment it seemed to me to contain objectionable features in many of its details. But since I have read Dr. Carpenter's works, line for line of which it will be my duty to take you through, given as prizes at public schools even by the Recorder of the City of London, who charged the grand jury, at the Old Bailey, which found the true bill which has sent us here, and put us on our trial before you, and again, when I read the works of Dr. Kirke, of Dr. Fleetwood Churchill, Dr. Marion Sims, Dr. Nichols, Dr. Brinton, Mr. Hilles, Dr. Graily Hewitt, Dr. Chavassee, Professor Wilder, and many others most probably known to you, but whose

writings can never be said to have been intended to inflame the passions, I felt ready to stand before you, not to ask you for deliverance from any limited punishment my lord might give me on your verdict, should it be adverse to me, but from the more severe consequences that a conviction of intent to corrupt the public mind will cause me. The stain which will rest on me in such an event will be one which would sorely check and bar the career in which I have hoped, and still hope, to make my way. This punishment, I say, to me would be immeasurable in its severity, compared with the mere sentence that would follow as the measure of punishment I should receive here for what I have done. And in speaking of that alone, I will affirm to you that there is not a line of physiological information in Knowlton that is not chastely put, and that the tone of the work is not calculated in any way to inflame the passions or to deprave the mind. The learned Solicitor-General—and unfortunately my voice does not possess here the weight which his position gives him—in conducting this prosecution against us, suggested to you that the work was full of colouring. If there be a colouring in the work it is a colouring we do not make: it is a colouring drawn from the misery, a colouring drawn from the suffering, a colouring drawn from the poverty, a colouring drawn from the despair with which we have to deal. The learned Solicitor-General, I am sorry to say, used one word that I wish he had thought fit to have left out of his speech. I am willing to believe, although not having the honour of being a member of the profession and not having the honour, at least on this side of the water, to be the friend of any of its members,—I am willing to believe that a gentleman in the position of the learned Solicitor-General would not—to obtain a verdict in this case—have used the word had it not been in the instructions given to him in his brief; but I have a great difficulty in reconciling to my own mind how he can admit that there is not a trace of vulgarity in the work which he thinks right to describe as “filth.” I cannot help thinking that he forgot he was pleading for the conviction of a man and woman, and for the moment was led away by the thought that he was conducting a civil case where some trick practice would win the verdict of the jury in his favour for the moment, to be ultimately reversed by the deliberate judgment of thinking men. Now, let us consider first what the word “obscene” means. When the matter was first

debated in 1857, not at some common debating society, but before an assemblage including the finest intellects in the world, it was objected to by Lord Brougham with reference to Lord Campbell's Act, that there was no definition of the word "obscene." Lord Brougham asked—Hansard's "Parliamentary Reports," vol. 146, No. 2, p. 329—"How did he (Lord Campbell) propose to define what was an obscene publication?" and Lord Brougham reminded the House that "In the works of some of the most eminent poets there were some objectionable passages which, under this measure, might cause them to be considered obscene publications." What was the reply of Lord Campbell? If you accept it, it is impossible for you to give a verdict against us. Lord Campbell's reply was that "He had not the most distant contemplation of including in the Bill the class of works to which the noble and learned lord referred. The measure was intended to apply exclusively to works written for the single purpose of corrupting the morals of youth and of a nature calculated to shock the common feelings of decency in any well-regulated mind." And lest there should be any mistake as to what Lord Campbell meant, he added, "Bales of publications of that description were manufactured in Paris and imported into this country." And to make the distinction still stronger, Lord Campbell then said that the need for the statute was that the people who published them, that is these obscene works, hid their names, were not to be found, and that it was necessary to send spies and informers after them. This was not needed for persons who sent previous notice to the public authorities that they were going to publish a work. The whole offence lies in the intent with which it is published. When did you ever see two people give notice to the police authorities under circumstances involving a wicked intention of the act they are about to commit. Before one copy was sold by us, as you have heard from the witnesses for the prosecution, myself and my co-defendant gave notice to the police authorities of our intention to sell. However wrongful our act may be adjudged by you, I deny that you can say we have not acted with frankness and fairness. I deny that you can assume against us any corrupt intent.

The LORD CHIEF JUSTICE: That may be sought in the work itself.

Mr. BRADLAUGH: I am content, my lord, to accept that, and your ruling in the case of the *Queen v. Hicklin*,

that if within the four corners of the work it tends to corrupt and deprave the public mind then no good intent, either unmistaken or mistaken, can save us from conviction. I would not be so impertinent—ignorant though I may be on some matters of law—as to raise an argument which I thought had no bearing on the matter. I wished to show the jury that on the facts as proved we are not persons who would be likely to publish a corrupting work. The Lord Chancellor, replying to Lord Campbell, said that which I unfortunately know to be true—"Who could tell but that the superintendent of police or the magistrates before whom the application came would take a different view of what were obscene or indecent publications from the noble and learned lord."

THE LORD CHIEF JUSTICE: The Lord Chancellor of that day was Lord Cranworth?

MR. BRADLAUGH: Yes, my lord. Lord Lyndhurst, in the same debate, asked, "What is the interpretation which is to be put on the word 'obscene'?" I can easily conceive that two men will come to entirely different conclusions as to its meaning." No one can help taking a very different view, but in a case where there is no suspicion that one was going to run away, where we went to the police office to look after the authorities, so as to be in readiness if summoned, it is a little hard that difference of opinion should involve personal indignity. Instead of treating us reasonably, fairly, and summoning us, we were taken on warrants—an indignity I do not complain of personally, but I do complain of such conduct towards the lady who is my co-defendant, and if I have a greater sense of responsibility in now addressing you it is because this lady, who has to share the result of this trial with me here, has been to no inconsiderable extent influenced in her course of action by my views on the law of population. With me this question is no new question. I have been a journalist for the last nineteen years, and in my first prospectus I put forward the Malthusian view as part of the editorial intention of that journal, and lest the jury should think that we now take up this struggle in any mere desire for novelty or notoriety, I may mention that the late Mr. John Stuart Mill left me, written by himself, in his autobiography, a few lines stating that I commended myself to him because I took upon myself the advocacy of these Malthusian views when they were even more unpopular than to-day. If

the work of my life has in your judgment been corrupt when I have sought to teach prudential checks, if you think that I have been criminal in that I have tried to cure poverty by these remedies, try, gentlemen, to decide for yourselves in what fashion the growing evil of poverty is to be dealt with. My co-defendant has sought to show you what is the condition of the poorer classes. Permit me to add a word from my own experience. Some working men in the North of England recently made me arbitrator in a dispute as to the wage of those men who were workers in one of our coalmines. By my award I took 15 per cent. off that wage, and most of those men are earning at this time less than £1 a-week. If I am not to be permitted to show to these men how they may prudentially alleviate their poverty, what am I to do for those poor toilers who put their confidence in me, and whose wage I have reduced? It is with a view to ensure the welfare of these poor people, that my co-defendant, perhaps influenced for some time by my strong views on the question, but now governed entirely by her own views of duty, has with me published the pamphlet which has caused her to be placed in a position which but few gentlewomen would like to take. Is it "obscene" to teach the poor and wretched not to crowd hungry mouths together where food is short and misery plentiful? Lord Lyndhurst asked "what is the interpretation which is to be put on the word obscene?" And in trying to deal with this question I will endeavour not to travel over that which my co-defendant has so clearly stated to you in her speech. Lord Campbell said the question was for the jury to decide, and I will ask them here so to decide it that no such stain shall rest upon us as the indictment seeks to cast. An expression of opinion fell from the Lord Chief Justice yesterday to which I cannot quite assent. I agree with my lord that there are works which do not come under the ordinary definition of the word obscene, but which might tend to corrupt public morals, and I also agree that a work which recommended assassination would be a work tending to corrupt public morals, but I deny that any such work would be prosecutable under this indictment. I am not indicted for such a work. This is a specific indictment for publishing a book specially described and the verdict must be in the language of the indictment.

THE LORD CHIEF JUSTICE: Of course.

Mr. BRADLAUGH: Then I will not press that a moment longer on your lordship.

THE LORD CHIEF JUSTICE: A book recommending assassination would not be an obscene book. But how does that help you?

Mr. BRADLAUGH: I will put a case to you, because of what fell from the learned Solicitor-General. Supposing—which I utterly and indignantly deny—that this Pamphlet, which, it has been alleged, recommends abortion, actually did so, while I agree it would be an offence of a fit character to justify a prosecution, yet I say it is not one punishable under an indictment such as the one under which we stand charged, and I wish to submit that to your lordship very strongly, because I do not want to raise issues unnecessary to be raised, nor do I want to have a view passing through your lordship's mind which would involve me in the supposition that I am arguing with reference to one kind of supposed guilt, when actually arguing against another. The offence charged against us is under the common law, that is the common usage of the country, and it is, comparatively, a modern offence so far as the common law is concerned. The case of the *King v. Curl*, in 1727, is the first case which, as far as I am aware, was ever tried out at common law, so as to obtain condemnation of the defendant. It is reported in Howell's "State Trials," vol. xvii., page 154, and I cannot help thinking that anyone reading, with care and attention, the decisions from the case of *King v. Curl* forwards to the present day, could come to but one decision, as to what works are intended to be indictable as obscene works, *i.e.*, works which incite to the commission of acts which have been considered by proper legal tribunals to be acts of obscenity. And I submit that, under the common law, you will not now find out, or extract for my prejudice, a definition of the word obscene, which has never yet been laid down by the judgment of any court, or affirmed by the verdict of any jury. I will now deal with the details of the physiological part of the work, with respect to which his lordship has made a remark.

THE LORD CHIEF JUSTICE: It was not altogether with reference to the physiological details I interfered; it was rather that these details, though perfectly pure, must be looked at through the intent and purpose of the whole book.

Mr. BRADLAUGH: Very well, my lord. They say then, in

effect, *qua* detail, the work is not indictable, but the intent of the work being to prevent conception under certain circumstances, the whole of the book is assailable as an immoral book. Now can it be an offence to advocate checks to conception?

THE LORD CHIEF JUSTICE: If it corrupts the public morals with relation to birth it is. That is a matter for the jury. I certainly shall not withdraw from the jury the question whether the proper construction to be put upon the book is that its opinions with regard to the duties of women had a demoralising tendency. That is for the jury to decide.

MR. BRADLAUGH: Then comes the difficulty, indicted as we are under the common law, into which I am placed, that there has never yet been a similar book submitted for judicial decision.

THE LORD CHIEF JUSTICE: It is for the jury to say whether that is or is not an offence; that is, whether a recommendation which shall have for its effect this restriction of births does or does not tend to the depravation of the public morals.

MR. BRADLAUGH: I submit we do not come within the terms of an ordinary prosecution where your lordship would direct the jury that the offence is within the statute, or clear under the law declared, because the question is for the first time now to be decided before a judge and jury.

THE LORD CHIEF JUSTICE: It is useless to repeat. What I shall leave to the jury in time is that which has been laid down over and over again when the offence has been committed—*i.e.*, that published matter that tends to deprave the public morals, the effect of which is in the opinion of the jury to corrupt the minds of youth or anyone else, is an offence.

MR. BRADLAUGH: Then it will be a question for the jury whether, taking a fair and unprejudiced view of the matter in this pamphlet, it does tend to deprave and corrupt.

THE LORD CHIEF JUSTICE: That is the question I shall put to them.

MR. BRADLAUGH: I am quite willing to accept that, and it is what will govern me in my presentation to the jury of my defence in this case; and I call your lordship's attention now to the case of the Queen *v.* Hicklin, and especially to the case of Steel *v.* Brannan, which was a case of the almost entire republication of the same pamphlet in the report of

the trial. There the defendants submitted that they had left out some of the "most filthy and abominable passages occurring in the former edition," the use of which words precluded the supposition that even the defendants in the *Queen v. Hicklin* case could contend that the pamphlet there was not obscene. Your lordship's own language in the case of the *Queen v. Hicklin* seems to me most vitally in my favour. Your words were, "I think if there be an infraction of the law, and an intention to break the law, the criminal character of such publication is not qualified or affected by there being some ulterior object of a different and of an honest character." Upon that I submit that, to find us guilty, the jury must not only be of opinion that there has been an infraction of the law, but an intention to break the law.

The LORD CHIEF JUSTICE: That is not what I said. What I said was, if the effect of the publication was to corrupt the minds of the individuals composing the public it was not because the publisher thought some ulterior good was likely to arise from it, that he was excused.

Mr. BRADLAUGH: I do not in any sort of fashion wish to insist on any words that may be incorrectly applied to you lordship, but I was reading from the *Law Journal* report.

The LORD CHIEF JUSTICE: No, that is what I think I said, that is what I meant to say, and what I shall say now. Suppose the effect of this work—I am only putting it hypothetically—suppose the jury think the effect of this language is to corrupt public morals, it is not because of a desire to alleviate poverty—it is not that which would excuse an infraction of the law, if there has been any. That is all I meant to say then, and shall say now.

Mr. BRADLAUGH: The difficulty, my lord, still passing through my mind is, suppose myself and co-defendant to have believed the pamphlet not to have been an infraction of the law—suppose we made it clear to your lordship and the jury with whom the decision rests that there never has been any hostile judgment against a work of this class, and that, on the contrary, works—innumerable works—containing the same matter had been published unchecked, I only want—not to press it unfairly, but—to have your lordship and the jury in full possession of the contention I wish to raise, that, if so, this is no offence at common law, there having been nothing decided during the last hundred and

fifty years to govern us; I wish to convince your lordship that we cannot be convicted on this indictment.

The LORD CHIEF JUSTICE: I shall be bound to direct the jury to the contrary.

Mr. BRADLAUGH: Very well, my lord; I will not press it further. I will come, then, to the dictum in the same case of Mr. Justice Mellor, and that I feel bound to urge on your lordship. In the case of *Queen v. Hicklin* his lordship, after saying that he arrived at his decision with some difficulty, says:—"The subject itself, if it is a subject which may be discussed at all, and I think it undoubtedly may, is one which cannot be dealt with without, to a certain extent, producing authorities. Now I take it for granted that the magistrates themselves were perfectly satisfied that this pamphlet went far beyond anything that was necessary or legitimate for the purpose." Supposing the population question is a fair subject for discussion one must examine what the object of this pamphlet purports to be, and whether it is reasonably and fairly what it purports to be? It purports to be an essay on the population question, and I will not venture to go over the grounds put forward so ably and exhaustively by my co-defendant, who has amply proved that the pamphlet is really what it purports to be. Is it an indictable offence to put forward views on the population question, or to discuss checks to over-population, or to recommend some kind of checks? Where is any authority for any one of these propositions laid down? I venture to say it has never been laid down that it is an indictable offence to advocate the Malthusian view of the population question.

The LORD CHIEF JUSTICE: Certainly not.

Mr. BRADLAUGH: Then, if not, comes the next question of advocating checks. It surely is not indictable to advocate checks to over-population?

The LORD CHIEF JUSTICE: If you do not advocate it by means which are inconsistent with public morality.

Mr. BRADLAUGH: Then comes, is it indictable to advocate checking population by one means, and not indictable to advocate checking population by some other means?

The LORD CHIEF JUSTICE: It might be by late marriages instead of early marriages. There is nothing indictable in that.

Mr. BRADLAUGH: Professor Fawcett and Mr. Malthus no doubt advocated late marriages; then comes the question,

is it indictable advocating early marriages, and advising checks to operate after marriage? I respectfully contend that it is not. The checks have been divided by my co-defendant into death-producing and birth-restricting; the birth-restricting can only be divided into two kinds, having sub-divisions—the one, late marriage, which I will dismiss for a moment, and the other early marriage and small families; early marriage coming first and the check coming afterwards. You have had many extracts from an essay on the morality of married life by Mr. Montagu Cookson, and it is only fair for me to say of Mr. Montagu Cookson that he has written me a letter in which he says that it is not his view which is put forward by Knowlton in this pamphlet. He holds the doctrine that it is possible for married people to produce or check conception according to the special period of co-habitation, and that, I think, is fairly what Mr. Cookson would say if in my place, although it is not my duty to press his language in this way. I do not wish to do any injustice to him. He says it is the right thing to marry early, but you must restrain yourself after marriage, and in his letter he says you can do so by knowing and observing the laws governing the reproductive system of women. There are the mensual periods when women conceive more easily than at other times, and therefore at such periods restraint is necessary. If that be true, you must instruct the persons whom you desire to practise restraint, and then the whole of that part of the Knowlton Pamphlet, as to the menstruation and the liability to conception, is instruction necessary to be communicated to the mass of the people whom you desire should utilize that knowledge. I must say I heard with some surprise from the learned Solicitor-General that this instruction must be confined to the medical schools and not communicated generally to the public. I submit that such a contention is the height of absurdity. If it is the population you wish to check, you must publish the instruction, enabling such checks to be applied, to the masses of the people, and more especially you must publish to that class, some of whom are even now only earning something like 12s. a week. In Hereford, the other day, I learned from proceedings before the magistrates that there were men in that county who earned but 8s. 6d. a week. You say, then, that such men as those are to consult medical practitioners, to whom they must pay a fee for advice on the subject, and that they must not have this work for six-

pence, although works of a similar nature, at prices varying from 1s. 6d. to half-a-guinea, are sold by Messrs. Churchill, Messrs. Renshaw, Messrs. Longman, and Messrs. Trübner, and are to be bought on the railway bookstalls, by all who can afford? It has been said by the learned Solicitor-General that the book is an obscene one, because it may get into girls' schools. I shall show you that Dr. Carpenter's works and Dr. Kirke's "Handbook of Physiology" are used for the examination of boys and girls in Government schools, for the education of both boys and girls. I am within the ruling of his lordship; but I am prepared to put into the box scholars who were instructed in these works, and who received them as prizes. It is a work of great difficulty to collect this class of evidence, and in our case it has been immense, for there is a reluctance to come forward in a case where obscenity is alleged. What we have the question narrowed to is this, holding the view that the population has a tendency to increase faster than its means of subsistence, we urge that it is necessary to encourage preventive checks on population. In an essay of my own, entitled "Jesus, Shelley, and Malthus," I have thus stated the Malthusian position—"Mr. Malthus advanced three propositions:—1. That population is necessarily limited by the means of subsistence. 2. That population invariably increases when the means of subsistence increase. 3. That the checks which suppress the superior power of population, and keep its effects on a level with the means of subsistence, are all resolvable into moral restraint, vice, and misery." Take that as a fair summary of Malthus. I say it is not wrongful to advise, as John Stuart Mill, Professor Leone Levi, and Mr. and Mrs. Fawcett have done, that there should be prudential checks in lieu of the positive ones of starvation, disease, and crime; and how is the general public to know anything about prudential restraint, or to practise prudence as recommended, unless you publish cheap works in plain language, so that they may be widely circulated? If you tell me that this is a colourable work written for another purpose, that is another thing, and I understood the learned Solicitor-General rather to put it on that issue; but I emphatically deny that there is anywhere in the book the slightest particle of evidence of any such colourable character. If you tell me that this book is indictable because of its advocating checks which have not become commonly known, and which the English public

have not yet understood, I utterly repudiate the proposition. There are many means of preventing births in cases of disease which are urged by medical writers who have never been made the subject of a criminal prosecution. I will ask your lordship if this is to be denounced as obscene? If it be obscene at all, whether it is to be published in a medical student's room or at Stonecutter Street cannot matter at all. The mere fact that it is widely sold and that it is cheap in price cannot, I submit, in any way affect the judgment which my lord will ask the jury to give upon this indictment. It is not necessary that I should go in any fashion into the long argument with respect to this point of over-population, as my co-defendant has already gone into it so thoroughly; but I must ask your lordship to bear with me for a moment while I deal with some expressions of opinions of persons nine or ten years ago treating on this question,—a number of persons of whom I was one. The matter is printed in the *Journal of Health*, then edited by Dr. Hardwicke, the present coroner for Middlesex. In 1868 there was a debate at the London Dialectical Society on a paper read by Mr. Laurie, where I made a speech, with which I will not trouble you. The son of one of the leading statesmen of our time on the Liberal side, Lord Amberley, who is now dead, took part in the discussion. Mr. Laurie had been the tutor of Lord Amberley, and the following is from the report: "Lord Amberley said that the subject brought forward by Mr. Laurie was of first-rate importance. There was no doubt that prevention of over-population was far the best method of attacking the evil. How was that motion best to be spread? He was glad to hear Mr. Bradlaugh say that the working-classes were beginning to debate this vital point. Unfortunately, the influence of the clergy, in common with that of society and the natural passions of mankind, were opposed to the prevention of over-population. He believed, indeed, that women would naturally have a stronger feeling against large families, had they any say in the matter, and if these opinions were more heard. He was truly glad to hear the credit of the discovery given to the great Malthus. Like all other discoveries, there was something wanting to work out the details of Malthus' views and the way in which population could be prevented with the least pain and discomfort. . . . Emigration was good, but not rapid enough to relieve the pressure caused by rapid multiplication. The practical con-

clusion from all of which considerations seemed to him to be, that Malthus was correct, and that if we were to escape from poverty, it must be by means of limitation of our families. We naturally objected to war and famine. He (Lord Amberley) objected to celibacy. Well, then, the only remaining alteration seemed to him to be small families; and this was, in fact, a medical question. He much wished he could stay to hear the opinion of the medical gentlemen in the room whether it was possible to restrain the size of families without measures which were injurious to health. The American ladies were in the habit of keeping back their families: but the means used by these ladies seemed to him, as far as he had heard, dangerous to health; and hence he should much like to hear discussion upon the point whether some less hurtful means could be suggested." I should tell your lordship, that in New England, in the old and settled parts of America, in France, and other countries, the use of checks to prevent large families by poor people is a matter of everyday practice; and I don't know, my lord, how morality is to be measured if I am to be told it is immoral to prevent the birth of those miserable and wretched beings whose state is so depicted in Bishop Fraser's report. No doubt, if so, we are immoral. But, says the learned Solicitor-General, if the work were limited to married people there might be no objection, whereas you put it within the reach of unmarried persons who may abuse it. A man who sells a razor puts in the hands of a person an instrument with which he might cut another's throat, but that man does not advise the other to commit murder, nor would he be indictable if without his participation murder were done. I must complain of unfair suggestions on the part of the learned Solicitor-General, when he said that there was mentioned in the work an instrument for checking population which might be purchased at any chemist's shop for one shilling; he was not familiar, evidently, with the works of Hewitt, Sims, Churchill, and the "Ladies' Companion," which is a journal published by the Homœopathic Society, or he would have said in so many words that that mysterious instrument was a harmless syringe, which is commonly used for personal cleanliness. The use of the word instrument was calculated to convey an improper impression which the language of the work does not justify. What I have to contend is that it is lawful to argue the question of restraint to population, and that the physiological details of this pamphlet do not, in the language of Mr.

Justice Mellor, go beyond what may be termed necessary or legitimate for the purpose. I was most pained to hear from the learned Solicitor-General the declaration that the work was to be condemned as obscene because it only described the female organs.

The LORD CHIEF JUSTICE: I confess when I heard the Solicitor-General say that I was surprised, because I thought that it was the more a proof in favour of the pure intention of the work. If the work had been intended to corrupt the morals of the young, it would have contained statements which would tend to corrupt the minds of females as well as of males, and if a description of the female tended to corrupt the male youth, it would be natural to suppose that there would be the converse—the description of the male. I don't, therefore, feel any force in the observation of the Solicitor-General.

Mr. BRADLAUGH: I will not add one word to what your lordship has said. I have so many details to go through that I feel I may weary the jury, but the length of the case is not my fault. I have asked the prosecution, "What do you rely on?" and they say, "The whole book." Line by line my co-defendant has gone through a portion of it, and I will go line by line through the other part for the purpose of showing you that no part of it is obscene, and of pointing out to you what I think ought to be your verdict; and I submit that in this work of Knowlton the whole of the physiological details given here, beginning with page 11 and going forward, are descriptions only of such parts of the female organism as are thought necessary for the reader to know with relation to health and disease of the female when capable of the exercise of her reproductive functions, and from conception to birth. The learned Solicitor-General, with the business of an advocate, regarding the gain of his cause rather than accuracy of statement, said that the sexual act was described with a disgusting fullness and particularity. Not only is there no such particularity, but, on the contrary, the details are scant compared with such works as I shall have to compare it with, line by line, until I have convinced you. You will say nothing can be more chaste or delicate than Knowlton, if he is to refer to these matters at all. I need hardly concern myself with the inquiry as to who is prosecuting us, because, if we have committed an offence, it does not matter; and if not, no kind of outside influence will here govern the verdict to be given. I will

only put it, that it would have been better that we should have stood face to face with our actual prosecutor—the one who really finds the means of briefing the learned gentlemen against us. But we do, I hope and believe, stand face to face with a judge and jury who have not only fairness and patience to hear the arguments we have to offer them, but who would all dismiss any sort of prejudice that might be sought to be imported into this inquiry. I wondered at the learned Solicitor-General introducing a topic such as the Christian religion into his address here, and I pass without reply the words so used. If this work is to be considered obscene because it is cheap, what becomes of “Chambers’s Encyclopædia” and other works issued in numbers, which publish descriptions and illustrations of the generative organs. Now, I put it that the fact that some one else may make an ill-use of this work is, as my co-defendant put it to you, a matter to be entirely dismissed from your mind; that a work on toxicology is not indictable simply because some one may learn how to practise from it a mischief to the community by taking life with poison. The Recorder, in his charge to the grand jury, who have sent us before you, said that a medical work, though indecent, published for medical students in a medical lecture-room, would not be indictable, but that, circulated widely, it would become so. I submit that if the book be indictable in itself it is indictable wherever published, and that if not so indictable, the increase in its publication cannot create it an offence. The Solicitor-General said that we contended for the right to expose the human frame in public, and he gave another illustration not so pleasant to the ears. We make no such contention. There is a distinction that is admitted with regard to acts which are a nuisance and annoyance to others; a distinction recognised in this country, and, I may say, recognised in every civilized country. I reply that the exposure of the naked human form is criminal.

THE LORD CHIEF JUSTICE: I suppose you would admit that an illustration of the human form in all its details in natural size placarded about the streets would be an offence?

MR. BRADLAUGH: Oh, yes, my lord.

THE LORD CHIEF JUSTICE: It is not the subject in itself that is indictable.

MR. BRADLAUGH: I only say that exposing the human

form in all its details, in any size, to the annoyance of the public, is a fair matter to be dealt with and punished by the law. I am not here to start false arguments or to contend for absurd positions.

The LORD CHIEF JUSTICE : Go further than that. If a man took it into his head that the exposure of such a matter would tend to the profit of the State, if he went to such an extent, he must take the consequences.

Mr. BRADLAUGH : Which ought to be "Colney Hatch," my lord. (Laughter.)

The LORD CHIEF JUSTICE : I should think so.

At this stage of the proceedings the Court rose.

THIRD DAY.

LORD CHIEF JUSTICE COCKBURN took his seat at 10.30 A.M., and the Court was again densely crowded. Mr. Bradlaugh immediately rose to resume his defence.

MR. BRADLAUGH: There is, in the extremely accurate report in the *Times*, a comment, my lord, which makes me fear that I failed to convey quite the explanation I intended to put to your lordship on Montagu Cookson's paper in the *Fortnightly Review*. I intended to put to your lordship what Mr. Cookson, in a private letter to myself, had expressed: that the restraint after marriage, upon which he relied, was a restraint in association at certain periods before and after the menstrual period of the woman; but there is nothing whatever in the article of Mr. Cookson which in any fashion limits his explanation and the language, as reported in the *Times* seems to convey the notion of restraint in the sense of a sort of celibacy after marriage. The language of Mr. Cookson's article is entirely at variance with that construction, and I hope your lordship will pardon me putting that before you, as I wanted to make quite clear my view so as not to misrepresent Mr. Cookson, or, on the other hand, to injure my cause. There is one other point—the letter sent to the *Times*——

THE LORD CHIEF JUSTICE: We really cannot go into that.

MR. BRADLAUGH: Very well; I will only ask that nothing that appears in connection with the reports may be taken as militating in any fashion against what is put here in this case. Now, my lord, I submit that the intention to break the law by publishing obscene matter is governed in this way. I will use your lordship's own words, in the case of the Queen *v.* Hickling—words which, if it were not impertinent, I should say that I urge in the strongest fashion—"Where a man publishes a work manifestly obscene, he must be taken to have had the intention——"

THE LORD CHIEF JUSTICE: Equally so, if he publishes a book manifestly immoral. Is it desirable to discuss this

legal question? I must remind you that you are addressing the jury, not me.

MR. BRADLAUGH: Well, my lord, I will pass away from that entirely, and I will put to your lordship, and to the jury, a series of propositions on which I shall ask their consideration, and the answer to which will govern the verdict which you will give in this case. The first proposition I shall submit is one that has already been more than proved to you, that the essay indicted is an essay on the population question, and I submit next, under my lord's correction, that the question is one lawful to be discussed. I submit next that it has been amply shown to you, and could be proved over and over again, that over-population is a fruitful source of poverty, ignorance, crime, vice, and misery; that therefore the advocacy of prudential checks to population is not merely lawful, but is highly moral. That the prudential checks are all birth-restricting checks. That birth-restricting checks are by delays of marriage or by restraint after marriage. That late marriages and celibacy or general abstinence after marriage involve horrible diseases and crimes, and perpetuate prostitution. I had, when I framed that last proposition, in thinking of the best way of putting it to the jury distinctly—I had simply put it that late marriages and celibacy involve horrible diseases and crimes, and perpetuate prostitution. But when I found that there seemed to be a possible contention that it might be lawful to advocate that which was equivalent to absolute celibacy, so far as all sort of consummation after marriage was concerned, after going through the marriage ceremony; that proposition seemed to me to involve all the terrible consequences of ordinary celibacy, both to the man and the woman, with the addition that there would in that case be the provocative excitement of association, and the worse disease arising from a denial of it, if you can suppose such a denial possible amongst people of the poorer classes, from whom the great mass of the population spring. That early marriages involve the advocacy of restraint of, and intelligent gratification of, the reproductive functions. I submit that if you are dealing with the question of population, having admitted the law of population, and the doctrine of early marriages that then you must admit the right and duty to advocate restraint; if you hold that doctrine of celibacy

is attended with disease and crime, and perpetuates prostitution, then you must also advocate the intelligent gratification of the reproductive functions. That restraint after marriage must be of two kinds : one, the abstinence from cohabitation which has been advocated by many doctors, who contend that during certain periods, *i.e.*, within a certain time before or after the menstrual period, conception is either impossible, or, at any rate, difficult. Against that you have the fact that a well-known people, by their ceremonial laws, are prohibited from sexual intercourse during the period indicated, and notwithstanding that they are notoriously a most prolific people, so that I submit that the restraint after marriage must mean the intelligent gratification of the functions, so that the act shall not involve bringing into life a child whom the parents are unable to support. I submit that advocacy of such a restraint has never been declared unlawful, my lord, and that it is not unlawful, and I submit that advocacy of such a restraint does not tend to deprave and corrupt the public mind, but tends to promote and to increase the morality of the people. I submit further, that the worst evil that could happen, supposing the acceptance of this doctrine, is that unmarried people might cohabit without having children, and that this is not an evil for which we should be held criminally responsible, as the pamphlet urges and insists on marriage in such terms as demonstrates that the insistment is not a colourable pretence; and here I repeat, with all the force that any earnestness can add to the eloquent repudiation by my co-defendant of any consciousness on our part of any colourable pretence by Charles Knowlton, that there was no evidence even tendered of any such consciousness. I say, except the unsupported inuendo of the Solicitor-General, required by the exigencies of his brief, there is not a paragraph from one end of this pamphlet to the other to warrant the supposition that it is directed against marriage ; and I say that, in point of fact, at the present time unmarried people do cohabit and have children, and that there are serious consequences flowing from it—consequences so serious that, to use the words of Dr. Lankester, now dead, quoted from the *Journal of Public Health* in 1868, by my co-defendant in her speech—he said that there were in London in that year 16,000 women who had murdered their offspring. I say that at the very worst this pamphlet might have prevented the repetition of

these 16,000 murders annually. I submit to you, gentlemen of the jury, that it is moral to teach poor people to marry early, and that this teaching avoids and will diminish illicit intercourse. I will not weary you with reading the whole of the report on the "Employment of Women and Children in Agriculture," from which my co-defendant quoted that terrible extract from the report of Bishop Fraser. You will there find that the illicit intercourse which we are charged with trying to produce is an illicit intercourse which is going on and bringing with it the birth of the child, and bringing with it the murder of the child by the mother, because there is the pang of starvation and misery and shame to contend with. I say that it is amongst the poor married people that the evils of over-population are chiefly felt, and that it cannot tend to deprave their morals to teach them how to intelligently check this over-population; and I submit, and I ask your gravest attention to this submission, because if you decide it in my favour it will, without anything else, determine your verdict in this case—that the advocacy of all checks is lawful except such as advocate the destruction of the foetus after conception or of the child after birth. I say that the advocacy of every birth-restricting check is lawful which is not the advocacy of the destruction of human life in any form after that life has been created. Now, gentlemen, if you should decide that in my favour there is an entire end of the whole case; and I submit to your lordship, and to you, gentlemen of the jury, with whom the arbitrament under his lordship's direction rests, and in whose hands our future is placed, that that is a proposition on which we are entitled to ask an affirmative answer at your hands. The proposition is not very long; permit me to repeat it to you again, because it governs the whole of the case I am going to submit to you: That the advocacy of all checks to over-population is lawful except such as advocate the destruction of the foetus after conception or of the child after birth. I admit in the fullest sense that any advocacy of the destruction of human life is not simply illegal under statute, is not simply illegal under common law, but is illegal under that moral law which obtains wherever there is an intelligent appreciation of what morality should be. That is, such advocacy is moral because it tends to the greatest happiness of the greatest number with the least injury to any. I say that the advocacy of any checks amongst the masses to be useful must of necessity be put in the plainest

language and in the cheapest form, and be widely spread ; and I press that upon you because I understand that the learned Solicitor-General in his argument put it that one of the faults of this pamphlet was that it was not obscured in learned language. If we possessed the facility of expressing ourselves in French, or Italian, or Greek, or Latin, or Hebrew, or Arabic, what earthly use would that be to the poor unfortunate wretches whose misery we want to redress ? It was objected over and over again, as my co-defendant reminded you, that there seemed to be some crime in the price of the book being sixpence, which made it specially objectionable. But if you take the fact, as fact it is, that in the whole of the counties of Northumberland and Durham, while I speak, the best paid class of hewers of coal are not now averaging much more than £1 per week ; take that for a man and his wife and three children only. But suppose him to have five. The Pauper Unions allow 4s. 6d. per week, and sometimes a little more, for boarding out a pauper child. Suppose the coalhewer has a family of five, six, or seven—do the multiplication for yourselves, and leave nothing for luxury or dissipation on the part of the bread winner—I ask what means has he of purchasing the expensive treatises from which I shall quote ? If it be right to advocate such checks—and that is why I say that on the decision of this question depend all the other propositions—it must be in language which shall be intelligible to the people whom you want to reach, and at a price at which they can buy it. It must be widely spread, for it is not to the few, but to the many, that the misery comes of crowding—from the many births of the poor—the crowding of people, jostling each other out of life in the search for employment, and the crowding into narrow dwellings, where disease, vice, squalor, and misery attend them. And it must be plainly put, because they are ignorant—very ignorant, because they are poor. They are ignorant because the misfortune of their life has made them so. They have to rise early, and work till they are tired, and then some of you who have opportunities for culture and recreation to which you can turn with intelligent pleasure, you may ask me why some of these men go to the beer-house, or waste their money in the gin-palace ? But if your homes were wretched and miserable ; if you were crowded as I have seen hundreds and thousands of men and women crowded in different parts of the country—three, four, five, or six in one room, something like that described in Bishop

Fraser's report. Let us take the case of a miner, for example, who has gone down into the mine at four o'clock in the morning and works there till eleven, as they do, in a temperature higher than your Turkish bath in Jermyn Street. He has come out, clogged at every part of the skin with coal-dust and dirt. His home—we will suppose it is a hot day like this—is dirty, the floor is dirty, the drainage of the village is bad, there are a few pit cottages together, and the refuse and filth is in front and behind. Do you wonder that he runs to the public-house, driven away by the misery of the home, and yet you tell me that it is immoral to try to do something to prevent the crowding of these little mouths, that by their hungry needs drive away everything like comfort from the home. If you give a verdict against us it should be with grave consideration as to whether the course we are taking is moral or immoral. And then I admit that such advice is liable to be misused by the criminal classes. I have in memory one of Chambers' Encyclopædias of "Useful Information for the People," in which, dealing with the human frame, the writer points out where it might be extremely easy to destroy life. Unquestionably that passing into the hands of many persons for three-halfpence would enable them to commit murder, but this pamphlet, passing into the hands of hundreds of thousands would enable them to avoid calamities which result in disease and death. Such hypothetical or possible misuse cannot make the ground for an indictment for misdemeanour. To say that some time or other such people may do something we have not recommended under circumstances we have not contemplated, cannot make a ground for indicting us here. I now submit that it is impossible to advocate sexual restraint after marriage amongst the poor without such medical or physiological instructions as may enable them to comprehend the advocacy and utilise it. Of what use is it to take a man or woman, totally uneducated, and to tell them their duty, unless you show them how to perform it. The telegraph is an admirable means of communicating from one country to another: but suppose you took a labourer or his wife into the operating room and showed them the apparatus for working the electric machine; they could not comprehend it, to them it would be useless; you must give them the information which would enable them to turn it to account. If it is right to advocate checks on population, it cannot be wrong to teach the poor how to apply such

checks. I now submit the next question, and I shall use the words of Justice Mellor, in the case of the "Queen against Hicklin." Does this pamphlet, in such physiological details, go beyond what is necessary or legitimate? I reduce it into four propositions : one, that over-population is a cause of immorality, and that which hinders over-population hinders immorality, and, therefore, its advocacy cannot be with intent to corrupt and deprave. I submit upon that, that to restrain the population after marriage necessitates giving to the poor and to the ignorant, from whom the bulk of the population springs, the information which shall enable them to comprehend and utilise these propositions. I submit to you that in this pamphlet there is not a single word which is unnecessary or which is illegitimate, or which goes beyond what is absolutely necessary for instructing the poor and ignorant. I hope I shall succeed in establishing that, and if I do so I shall with confidence ask a verdict at your hands. I am sorry to say that I have a very wearisome task before me, which will not only be wearisome to myself but which, I am afraid, must necessarily be wearisome to you. For I have got to go through the whole of this pamphlet, except the portions gone through by my co-defendant, not one of which I shall touch ; and I shall have to make out to you, and I believe I shall succeed in doing so, that there is not a solitary syllable on which the Solicitor-General can put his hands which is not chastely, carefully written, and painstakingly put, in the view of avoiding any sort of morbid excitement, any sort of improper allurements or enticement ; and if, during this speech, I shall be occasionally using words which may seem to you better avoided, I will beg you to think that I feel to the fullest the responsibility resting upon me, and that I will try to use no word that is unnecessary in submitting to you the proposition that in this pamphlet there is not a word, so far as the sexual details are concerned, which may not be found in works of the highest class. I shall take work by work ; I don't know whether, my lord, you would like to have them as I quote from each work. I have the publisher of each book present in court. I shall ask you, gentlemen, having your books before you, to mark upon the copies of your pamphlets the passages to which I shall draw your attention. The work from which I am now about to quote is "The Functions and Disorders of the Reproductive Organs in Childhood, Youth, Adult Age, and Advanced Life, considered in their

Physiological, Social, and Moral Relations, by William Acton." This was published by Messrs. Churchill, the eminent publishers of New Burlington Street, and has gone through a large number of editions. I will refer you first to page 8 of the Knowlton pamphlet. You will remember that my co-defendant left unread the last paragraph on that page. I will now quote from Acton. He speaks of young men "who have arrived at puberty and whose innocence has been preserved from unfortunate initiation. Their disposition becomes sour, impatient, and sad. They fall into a state of melancholy." (Mr. Bradlaugh here read pages 28, 29, 30, 31, and 32 of Mr. Acton's book.) He then goes on to describe in the strongest language the evils that result from a life of celibacy, and then referring to the last paragraph on the page, I bring you to the part which one has some little difficulty in dealing with, in Acton's own words, which are so much stronger and so very much more terrible than anything which occurs in this Knowlton pamphlet, where he describes the disease dealt with by Knowlton, where he describes the exaggeration of the fears of the person and of his sufferings when his feelings are played upon by improper people, and, where he puts it just as Knowlton puts it, and in precisely the same fashion, except that Knowlton is careful and chaste in the extreme in the language he uses. And then, dealing still with the same subject, he speaks of the necessity for giving instructions on this to boys. I am quoting now from the thirteenth page of Acton. He says—"I have been often urged by parents and schoolmasters to draw up a plan which might be of service in teaching them properly to address children, as well as boys." (Mr. Bradlaugh read, at length, from pages 14 and 15 of Acton's work and also from page 136.) And on pages 65 and 73 and thence to page 80 Dr. Acton deals with some of the terrible evils arising from celibacy in language which I find it difficult here to go right through to you, but respecting which I am placed in the greater difficulty that at some other period in the case I may be told that I had no right to call witnesses to prove this publication or to put it into your hands so that you may read it for yourselves. Acton in some eight or nine pages, from 65 to 73, deals with the whole of the points on pages 8 and 9 of Knowlton, and also with the whole of the points on pages 44 and 45, and I urge to you that the language of Knowlton's summary on this sad topic, if judged by Acton,

is as careful, as chaste, as thoughtful, and as delicate as it is possible for language to be. I come next to page 12 of the Knowlton pamphlet, because there seems to be some suggestion that the first five lines of the Knowlton pamphlet were specially indelicate, and on that I will refer you to pages 115 to 138 of Acton. There the language of Acton is just as precise, except that it is more full, so that, to use the words of Alderman Figgins, into whose hands I put the book when pleading before this case was committed for trial, it would seem as if Acton had taken his words, not as Alderman Figgins said, from Knowlton—it was impossible that Knowlton could have taken from Acton, because Knowlton published 30 years before Acton—but that both must have taken from some common source, which source I believe I have discovered through the aid of Mr. Bohn and which is a work now in the library of the British Museum. Curiously in the works of Acton, Carpenter, Kirke, and Churchill, it is evident that they have all taken, along with Knowlton, from some common and unacknowledged source. The description is however much stronger in Acton, the difference being that Acton had to write for boys and men, whilst I am urging to you that Knowlton wrote a work for women. Acton is more special in his references to the male organs than is Knowlton. Knowlton limits himself entirely to a description of the reproductive organs in the woman, giving only the most general of references to the functions of man, because it was not necessary to his object. Now, it may be said, and in fact it was said by the counsel for the prosecution before the magistrate: “Oh! but Acton’s book is a book simply meant to be limited to medical students,” or, to use the words of the learned Solicitor-General, only by those in some medical college, or medical school. But on the contrary, in page 21 of Acton—and I may tell you, gentlemen of the jury, that I have furnished more than six weeks ago a list of all the books to which I shall have to refer to the prosecution; and in the case of this book and the two next to which I shall refer, I have given this to them with the references all carefully marked for comparison with the comparison passage in Knowlton; so much do I rely on the strength of my case—Acton says that he means this book to be circulated. He says:—“I would not have that exotic virtue which is kept from the chill blast.” And he urges the necessity for instructing the young on sexual questions for the purpose of

avoiding immorality. Now, the learned Solicitor-General talked of the extreme minuteness with which the female organs were described, and to the mind of the learned Solicitor-General that seemed to convey an absolute proof that the book was written for the purpose of depraving and corrupting the public mind. And as the learned Solicitor-General has had Acton's book, or, at least, those who instruct him have had it, and he knows from my own written notices that it is one of those on which I rely, he has doubtless read the paragraph from which, in his presence, I will now read to you, as being the completest answer to his allegation these lines : (Mr. Bradlaugh then read from Dr. Acton, pp. 114 and 115). He goes on to say that he deals with these things not for the purpose of depraving and corrupting the public mind, but because he considers it is necessary to point them out for the purpose of avoiding evil habits and for the cure of disease, against which his book is directed. I am obliged to press that upon you, because this minute particularity was specially alleged as an illustration of what I think the learned Solicitor-General called the "abominable filth" to be found in Knowlton's book. Well, the book is published by Churchill. It has been said that two blacks do not make one white, and I do not want to urge that plea. I urge that neither book is a book which ought to be attacked under the law. I urge that impurity is not to be found either in Acton or in our book, and that both are written for the purpose of promoting morality, and not for the purpose of depraving morals ; but having to deal with the sexual functions, you are obliged to use the words which will indicate them for the purpose of making the instruction clear. I will now refer you to page 16, which is one of the incriminated portions of the pamphlet, and I will call your attention to page 142 of Acton, the page furnished to the prosecution six weeks ago, and which they have had the fullest opportunity of considering. I must read this language because it gives you the means of judging of how far in these five lines which I shall ask you to mark, how far they have been distorted by the prosecution, and used in an improper and unfair way. (Mr. Bradlaugh then read from Acton, page 142, and commented on the character and effect of the illustrations used by Acton.) If you take the words of Knowlton and the words of Acton and compare them, I cannot understand how any man could have thought it necessary to lodge an indictment against the former,

knowing that it was impossible, under ordinary circumstances, for poor women to get the necessary knowledge before it was too late, and to avert the misery which was certain to ensue if they were allowed to remain in ignorance, and that the author had made his language as chaste as it was possible for anyone to make it. I will take you now to the analysis on page 16, which has also been urged as part of the immorality. I think of the words of the learned Solicitor-General, "the enormous filth of this book," and here you find that only a few of the baldest lines are given : a few lines in a pamphlet which the Solicitor-General himself had the justice to say had not the faintest semblance of vulgarity, while Acton is not only full in his details, but actually gives printed figures to illustrate his meaning. The Solicitor-General may say "it is published for medical students," but it is advertised and described in Messrs. Churchill's catalogue, and anybody may buy it for himself across the counter, or he may get it by sending postage stamps. And Messrs. Churchill have not been slow to utilise this prosecution, by sending out circulars specially referring to one of these works used by me, in order to increase the sale. I do not complain of that, because I believe the books are useful and instructive publications and intended to promote public morality. But I say it is a horrible thing to put us in danger of imprisonment for giving that information to the poor, which may with impunity be given to the rich. I now take you to page 17 of the Knowlton Pamphlet, to which I will draw your attention. Not only does Acton (177 to 184) say all that Knowlton says, but he gives plates in order to describe the subject, so that there should be no mistake about it. If you hold up the one against the other, the book of Acton far out-Herods Herod, as against that of Knowlton. As I may not have another opportunity of having the learned Solicitor-General to listen to what I say, I will draw his attention to a book circulated by the Government of which he has the honour to be the legal adviser. Acton, I say, is purity itself compared with the books that have been issued for girls' schools by the Government, in the schools at Kensington and the schools under the Science and Art Department, wherein are used the works of Carpenter and of Kirke with plates larger than these, with descriptions fuller than these, with an analysis more complete than these. I say that when a description far much more voluptuous than anything in Knowlton is put into the hands of girls by order of the Government

of which he is the legal adviser, how can he say that that is filth in my case which ten thousand times magnified becomes chaste instruction in theirs? Still keeping you on the same page 17, you will find a subject discussed, which you see carefully stated in Knowlton, discreetly stated in Knowlton, and which you also find stated in Acton, page 180, I do not say without care and discretion, but comparatively stated with an enormous deal of fulness. You will also find the same thing, as I shall show you presently, in the work of Kirke, which is circulated in boys' schools and girls' schools, and also in this work of Carpenter, which, as shown by the certificate in it, was given away as a prize at Greenwich by Sir John Lubbock, Bart., M.P.; and the Right Hon. the Recorder of the City of London, who charged the jury against me, has given away, as a prize, the very book I have in my hand, Carpenter's "Human Physiology." I say that, compared with these works, the details in Knowlton which have been quoted, are chaste and delicate, and are the most carefully-made summary that it is possible for a man to write who wanted to tell the people as much as he could in short compass, so as to give them sufficient information for the purpose. Still keeping on the same page of the pamphlet, I bring you down now to the part treating on the changes at puberty. On that, I may refer you to the language, which I shall read to you from Acton, page 25. Now, while the language in Knowlton is very quiet, you will find, when we come to deal with Kirke and Carpenter, that if the language were intended—which going into the hands of boys and girls of the Science and Art Department, I do not believe it is—to have the effect of depraving the morals, it certainly might be supposed to have that effect from glowing descriptions of the comely figure of the opposite sex, and the attractions which the changes after puberty produce. These are omitted by Knowlton, because it is no part of his business to give such exciting descriptions. He merely wants to give the information which shall prevent men and women being surrounded by a large number of starving children. If the "filth," the "allurements," are to be found in the prize books issued by the Government, the representative of which is pleading for your verdict against me here, they are not to be found in my pamphlet. I ask you to look at the dry way in which in the line and a half Knowlton states the fact which is necessary, and the fuller way in which you have it here, occupying considerable space. Do not under-

stand me as putting any sort of insinuation upon Acton, who wrote that he meant his book to go into schools, and who is now dead ; do not let me be supposed to insinuate either that he would think he was writing a work that was filthy, or that he would imagine any one else would think it was filthy. I doubt myself whether, apart from the atmosphere of a law court where it was necessary to win a verdict, the calmer judgment of the Solicitor-General would not feel that the word was unfairly used against a book which he himself describes as entirely free from the faintest trace of vulgarity. How the two ideas can coincide in the learned Solicitor-General's mind is, to me, a problem that I am unable to solve, not having had that high legal training which enables me to misunderstand the case of my antagonist when it is necessary I should do so in order to misrepresent him. You will find that Acton says in page 4, that this point of which he speaks and which the learned Solicitor-General describes as being part of the filth "Ought to be explained to the youngest child." He says, "We must recollect that the child has never been taught." And that which Dr. Acton thought ought to be explained to the youngest child in schools, the learned Solicitor-General coming here, asks you to correct me for circulating, at the same time having himself been a law officer of the Government which does send that kind of instruction into the schools—which not only does that, but in its syllabus on "animal physiology," says to the children: "You are to be examined on the subject of reproduction, and are to give answers to 'the structure of the ovum and of the spermatozoon. The process of yelk division. The formation of the blastoderm and the development therefrom of the body of the embryo, with amnion, allantois, and yelk sac. The nature of the chorion, of the decidua, and of the placenta. The mode in which the foetus is nourished. The development of the heart and the foetal circulation. The changes in the circulation which take place at birth. The lacteal glands and lactation. The modifications in the proportions of the body from birth to adult age.'" And now I will ask the learned Solicitor-General, how are children in these schools to explain what these things mean, without much more complete instruction and full detail than even Knowlton can give? Carpenter gives the detail, Kirke gives it, Chavasse gives it, Marion Sims gives it, Graily Hewitt gives it, Kennet gives it, and a large number of other writers give

it to you, and how are you to examine children at all without giving them this knowledge? You are to discuss and be prepared to answer, on the process of yelk division, the nature of the ovum and the placenta, the mode in which the foetus is nourished, the development of the foetal germs, &c., and how are your boys and girls to do that in your schools unless you give them this knowledge? This is a syllabus for your science and art schools, issued by the Government, and prepared for their instruction, and they are referred for that instruction to the works of Carpenter, and to the works of Kirke, the works on which I am going to rely to make out more fully that which I am dealing with here. You come next, still on the same page 17, and if you, gentlemen of the jury, do not think it too much trouble to mark the pages as I go on, I will undertake not to leave you a single word by the time I have finished my speech which is not marked with a black line, as corroborated from these authors at least half a dozen times over, and that out of the very books authorized by the Government and circulated and put into the hands of the boys and girls whom the learned Solicitor-General deplored anything of this kind reaching. You will find a description given which is under the last sentence. I read to you of the effect of impotency upon certain classes of people, and I can read to you the words of Acton, of page 120 in his book, which you can compare with the words of Knowlton which you have in your hands, remembering that the prosecution have had all these books in their hands for comparison for six weeks. I ask you whether you are to imagine that Dr. Acton—and it is not of him alone: I take him because I do not think that even a Solicitor-General ever urged anything against his morality—this book has been circulated widely by Messrs. Churchill, who have the character in London of being amongst publishers *par excellence* the head of the branch of the business they pursue. I put it to you, whether indicted at common law, and measuring common law as common usage, whether you will find that to be depraving and corrupting in Knowlton, when published by me, and at the same time find it to be neither depraving nor corrupting in Acton, when published by Churchill? And the Solicitor-General cannot shelter himself by saying that it is a medical work only intended for medical students, for Acton himself says his book is intended for young people; that its knowledge may, if possible, prevent evils which if not prevented in youth can never be remedied

in after age, evils which Knowlton tries in very, very chastest language to put to the poor and the rough with whom he has to come in contact, and which evils he tries to warn them against and prevent; yet the learned Solicitor-General says that this is a book issued to deprave and corrupt the public mind, and that, in the words of the indictment, it is an indecent, a lewd, and a bawdy book. These, gentlemen of the jury, are some of the adjectives which are piled on me, and of which you are asked to find me here guilty. I will now, if you please, take you for one moment, still on the same page, to a reference at the very end of the last paragraph; I may refer to the end of the complete paragraph before it, because, if I understand the Solicitor-General's argument at all, and I am not quite sure that I always did, I find him there putting it to you as a sort of evidence of the immorality of this book, for he refers to the delight which might happen in the gratification of the sexual passions. Compare what Acton says (page 154) with the quiet, chaste description in Knowlton, and then, gentlemen, I ask you can you tell me that this book treating on the same subject has been issued for the purpose of depraving and corrupting the public mind—whether the learned Solicitor-General made a mistake and only read the works of the different doctors instead of the pamphlet he was charged to prosecute? Whether he read Carpenter's "Physiology," now issued to children under his own authority, instead of my pamphlet, in order to find a strong description for it, I do not know; but I will appeal to you, step by step, whether such condemnation is possible here. Now, gentlemen, I will bring you to page 18 of the Knowlton pamphlet, and ask you to take your pencils and then listen to Acton, pages 96 and 97. I will ask you to bear those words in mind when people are talking to you of celibacy, or of restraint after marriage without cohabitation. And the learned Solicitor-General thinks this ignorance, which Knowlton and Acton both deplore, ought to be allowed to continue. At any rate the learned Solicitor-General thinks that the education should not be given to poor people at a cheap price. He would have it limited to circles where they would be unable to get it, sold at a price at which they cannot purchase it. They are to suffer in misery—they are to feel the pain of their diseases, they are to know nothing of the possible remedies; they,

with their 13s. or 14s. a week, are to consult a physician to whom they are unable to pay the guinea fee, and whom from their agricultural parish they are unable to reach. Gentlemen of the jury, I trust your verdict will be a deliverance from the perpetuation of such a state of misery as this. Now, then, at page 20 of the Knowlton pamphlet, and I take you to the bottom of the last complete paragraph on transmitted peculiarities; I will ask you whether Knowlton has not, in two lines and a half, a quiet, delicately worded summary of those facts which Acton considers it necessary to teach. On page 22 of the Knowlton pamphlet your attention is called to the paragraph beginning "In relation to these objections;" and to page 24, where Knowlton speaks of the same subject, Acton writes of it in a far fuller manner (pages 90, 91, 142, 149, 150, and 157). Take and compare then pages 22 and 24 of Knowlton with those of Acton, remembering the words of the learned Solicitor-General, "That the sexual act was described with a minuteness and particularity that could only have been done for the purpose of corrupting and depraving the public morals." I cannot understand how it is that the learned Solicitor-General can have said this, when he had reference to all these books from which I am quoting six weeks ago. Why, I have done what I suppose no other defendant in a criminal prosecution ever did. I have furnished to the prosecution a list of the whole of the books (no sort of compulsion being on me to do so, I might have hidden my case from them as much as I could, and as they have hidden their case from me); but, to put it frankly, I did hope that common sense and common decency would have prevented even a Solicitor-General from having attributed to me that which, having fairly shown to be applicable only to others, he ought to have known should not have been attributed to me at all. Carpenter's work is a book which the learned Solicitor-General's Government puts in the hands of children! Listen, and then compare this to the words given by Knowlton on page 22. (Extract read from Carpenter as given in Acton, page 24). Now, compare that with the three or four lines of Knowlton, and tell me whether Knowlton is not chaste and delicate beside this book, which is put into the hands of girls and boys by the Government, which is represented here by the learned Solicitor-General as one of its law officers. I ask you how can you convict me with this directory of the Science and Art Department of the Com-

mittee of the Council of Education before you, telling the children, on pages 134 and 135, that this Carpenter's "Human Physiology" is a book in which they are to be examined for honours, and which they are expected to know all about. It is simply monstrous to put the words of that indictment to me at all—it is monstrous to tell me that Knowlton is "filth," that he states the act with minute particularity, when, gentlemen, if I do not succeed in winning your assent I shall have to show you in works—in other works by the highest medical men—medical men whom I would rather call to tell their own story, but that I am afraid, my lord, would feel it his duty to rule that such evidence could not be put in, and I am reluctantly striving to make myself my own witness at the risk, I am afraid, sometimes of sorely wearying you. But, if I do not give these statements now, I probably never can give them at all, and I am bound to cover every line of this pamphlet, which can only have been attacked in the manner it has been by a person knowing nothing about medicine or, having the knowledge, wilfully twisting it for the purpose of injuring someone. Here is Carpenter's "Manual of Physiology," published by Churchill, and also Kirke's "Handbook of Physiology," published by James Murray. These are the books which are put in the hands of girls—are given to them as prizes and as books in which they are to be examined. I do not want to use words for which my lord might rebuke me. I do not want to use one wrong phrase, but I am pleading here for my liberty. I am pleading for my future. I am pleading for my reputation. It is not pleasant to be indicted as the utterer of an obscene book. From a charge of theft those who know you will acquit you; from a charge of murder, even, it must be proved ere odium attaches; but the charge of obscenity is one of those sort of charges which is so difficult to deal with. The very wording of the charge casts a shadow. There is mud enough left on the garment however much you may wash it; after filth has been so freely thrown some of it is sure to stick—some one is sure to see the stain of it; some of those who have always malice to see these things kin to their lesser selves. On page 22, of Knowlton, you find in four lines an attempt to state the subject of satyriasis as chastely as possible, with nothing that could be offensive, without anything which could shock any well-regulated mind, or go in any sense beyond the instruc-

tion intended to give ; you find here that which Dr. Acton, I will not suggest unwisely, thought it necessary to state with a degree of fulness, which—while I may not use the words of the learned Solicitor General, “it gives me pain to repeat”—I will say it gives me pain to know that there are such terrible diseases to be dealt with, but most of all to know they prevail from ignorance and from misunderstanding of physical laws. I shall be within the correction of my lord, who has travelled many assizes, and I appeal to him whether there are not, at nearly every agricultural assize, cases which the press wisely refrains from reporting, crimes which though existing, English language hesitates to characterize ; whether they do not come before him, arising from this very satyriasis among the poorer classes of wretched, ill-fed, ignorant people, who if they had been instructed earlier in their lives and wisely trained, would have been probably saved from such a distortment of their nature. (After full comparison of pages 22 and 23 of Knowlton and page 157 of Acton, Mr. Bradlaugh went through pages 25 and 27, and then said—Now I go to page 35 upon which the learned Solicitor-General expended a very large amount of denunciation, and the denunciation was then coupled with the word “cayenne.” I have heard Frenchmen denounce Cayenne, because it is a criminal colony to which some of the political convicts are transported, but I hear for the first time in this court that the suggestion that cayenne as a possible remedy or a possible alleviation in some cases of disease can be associated with obscenity and denounced as filthy ; and if I fail to answer the learned Solicitor-General on that point, it will only be because I utterly fail to comprehend what he meant when he was putting it to you. There is a still stronger remedy on the same page, that of cantharides, and if you will look at page 132 of Acton—and I shall substantiate this over and over again from the works of other physicians—I shall show you the same thing, as to cantharides and cayenne ; indeed, there is not a single prescription in this book of Knowlton’s which is not over and over again given in all the authorities which I have before me—given with full language as to the diseases, and full details as to the remedies. Does cayenne become obscene put into a pamphlet and published at sixpence ? and is it all right when advocated in a medical book published at thirty shillings or two guineas ? Oh, gentlemen, I cannot believe you will stultify yourselves in any such fashion. Whether the Solicitor-

General's experience in criminal cases ever included cayenne in any fashion which might convey to him any idea of an obscene kind, I do not know, and I should not have dreamed of trying to answer it, had I not heard it put in a fashion which was to me utterly inexplicable, as part of the ground of the indictment against me. The same things I say as to the remedies on page 35 will apply as to the remedies on page 37. You will find Acton, over and over again, and at great length, showing the effect of study and excess. This chapter as to sterility has been so much spoken on that I must still ask leave to use a little more of Acton's own words, only regretting that the learned counsel for the prosecution did not think it right to state at least some things which he knew might have fairly been said for the defence. I probably have utterly miscomprehended English jurisprudence. I had known that in civil cases, that it was not considered sometimes unfair to leave the advocate for the defence to make out his case, but I had thought that in a criminal case, the second legal leader in England, matched against a man and a woman, with the knowledge before him put into the hands of his clients for six weeks before the commencement of the trial and actually furnished to them by the defendants—I had thought that there was some pressure of honour upon him to put to you in pleading to you for your verdict against us, at least, a little of what we contended for on our side. It was hardly fair to take this chapter, and this was the one that had so "pained" him—it was hardly fair to do that without saying (in justice to the defendants) that they had furnished him with the whole number of books showing the identity of the Knowlton pamphlet with what medical and English doctors of the highest repute had written. You will remember the Solicitor-General's words, "American doctors"—"perhaps some English doctors"—"God forbid"—were the words of the Solicitor-General, "that there should be any writing—such things." If he did not know that we were going to read these authorities it was only because the solicitors who instructed him did not perform their duty—and I will not do the solicitor to the city the injustice to think that he did not furnish to the Solicitor-General all the detailed references I had written to him, and given him, with every page carefully marked six weeks ago; the learned counsel appeared before the magistrates against me, with some of my references in their hands. And I ask you,

is it fair for the Solicitor-General to trust to our want of ability, or to our want of memory, to make good our case in important details of the kind? You, gentlemen of the jury, as my lord has well said, you are sitting there as arbiters in this case. It is you I have to convince, and from you I have to win a verdict, and is it fair that the learned Solicitor-General should have left out the whole of these facts, which he must have known if he had been properly instructed? At any rate, I know the junior counsel knew it, because I myself saw in their hands on the last occasion of appearing before the magistrate my analysis of Acton, furnished them by myself. I do not think that that suppression is quite right. I can scarcely deem it quite honourable. I quite admit that the learned Solicitor-General is fully occupied by questions to him much more important than the simple one of whether I shall go to jail or not; he has his Parliamentary duties to occupy his time, he has his other important and profitable engagements, but I do not think he should have come here and suppressed and kept hidden from you these matters of our defence which have been so carefully furnished to the prosecution; for when I afterwards found that I should have to use one or two books not included in the first list, I wrote to the City Solicitor acquainting him with the fact, and giving them the authorities, so that in no case can myself or my co-defendant be said to be acting otherwise than honourably and openly. We may be wrong, but, at any rate, we have fought fairly. Without wishing to use any words from which my lord would think that I have exceeded the privilege given to a defendant to plead for his own justification, I am bound to repeat that I do not think it was entirely fair to conceal all these things from you. I did give the prosecution clear notice that Kirke and Carpenter were used in schools, that other works to which I have referred you were so used, and yet the harsh language came from the Solicitor-General as if these things had never been heard of in the history of the English people except in the Knowlton pamphlet. Well, now I come to page 36, on sterility. Now I ask you to look at that while I read to you from page 192 of Acton. I might continue them *ad nauseam*. I am in this difficulty: I do not want to read to you to weary you, to prejudice you against me, but I am trying to prove my case. I must read enough to show you how utterly unreliable is all that the learned Solicitor-General has said about

Knowlton's particularity of detail ; I ask you, are not these words as completely chaste as it is possible to be, if he is to deal with the question at all ? Then, however, on the same page, 36 of Knowlton, treating of premature, and especially solitary gratification, I read to you on that from page 28 to page 31 of Acton, where he goes on at length page after page, and shows the evils, including insanity, which arise from this. Knowlton has dealt with this sad phase in the most quiet way, the most simple way, the briefest way human pen can touch it, and yet the learned Solicitor-General indicts me for publishing obscenity ! The same, in order to prevent repetition, may be said in reference to the Knowlton pamphlet, page 44, at the end. I will try as much as possible to prevent repetition, if I can. If you will mark what I mean in that page it will save me again referring to it. But I will ask you, as indeed I think—I am not quite sure, if not in that, at any rate in another part—my co-defendant did ask you, whether the language at the bottom of page 36 is the language of an indecent writer. He speaks of intemperance in the use of spirits, and says, even a “ moderate use of spirits, and even tobacco in any form, have some effect. It is a law of the animal economy, that no one part of the system can be stimulated, or excited, without an expense of vitality, as it is termed.” I ask, is that the language of a man who wants to make people immoral ? He does not teach them to drink and smoke in excess, but rather speaks against both altogether, and the Solicitor-General insults this man—and I stand here in his place, I acquit myself of no responsibility for his words. He has been dead for more than a quarter of a century, and your verdict, though it may touch his memory, cannot touch him. It is myself, and my co-defendant, who are pleading here ; I seeking to win your verdict with all the more force, because the advocacy of these views have been mine for so long and hers for so short a time, and she has to pay, with me, the penalty of inculcating what we both believe to be absolutely, and in every sense, the reverse of what the learned Solicitor-General says. The Solicitor-General talked of the colouring ; if we wanted to retort, was not the colouring somewhat in the Solicitor-General's speech ? You may think that we have done unwisely in trusting our own tongues to reply to the trained ability matched against us ; but we have the confidence, whether right or wrong (a confidence which we

still have), that the liberty of the press, in every age of the history of this country, has been conserved by English juries, and my reading, at any rate, has always compelled me to remember that, even in the worst of our times, when Solicitor-Generals' voices had more influence—I will not venture to say that the Solicitor-Generals themselves had a higher ability, although some of the grandest names afterwards known on the bench were amongst those—it has been the jury that has always stood between the prisoner and the power arrayed against him, and has given him a deliverance from an intent which ought never to have been alleged against him at all. Gentlemen, I am inclined to leave Acton, although I have a very large number of other passages marked right through, dealing with the whole of pages 38 to 41, 42, 43 and 44, because I shall only be repeating to you the same kind of language, and if the learned Solicitor-General in his reply should venture to say to you that I did not read these passages because they did not make out my case so strongly, then I will ask you to ask him why it is that, having had from me the paged references to Acton's book entirely in his own hands for so long, he has not stated to you the slightest word about them. There are one or two points which it is absolutely necessary that I should briefly allude to, although I will not read them at any greater length than I can help. One is on page 38, where there is a reference to the exhaustive efforts of sexual gratification, and I am obliged to allude to that because it was one of the parts that the Solicitor-General said that he alluded to with so much "pain." (Mr. Bradlaugh here read from Acton, pages 93, 94, and 95.) Compare that with the language of Knowlton, and then say, gentlemen, is not the language of our pamphlet carefully chaste? and you will remember that the learned Solicitor-General, in his speech, alleged to you that the happy gratification of the reproductive instinct was one of the most alluring, and most calculated to deprave by its indecency. I now will only take you for one moment to page 43, simply because, although I might occupy a very long time still with Acton, I have so many volumes before me that I am myself feeling that I may be transgressing unduly upon your patience. I will take you to the part of page 43, beginning "Begin temperately." Then on pages 104 to 107, Acton says (Mr. Bradlaugh here read a lengthy extract), and Acton goes into the details of a large number of cases to illustrate it. Now, I might occupy much

time with pages 43, 44, and 45, the whole of which is relied in by the Solicitor-General as warranting your indictment here. I might rely on an enormous number of quotations from Acton to cover every word of these pages, but this is the closing paragraph on page 45, to which I must allude, because I understood the learned Solicitor-General to suggest that these words on this were sufficient to warrant you in finding a verdict of guilty of publishing a filthy book to deprave and corrupt the public mind. I will read the words of Knowlton, although they were read by the Solicitor-General. (Mr. Bradlaugh here read slowly the paragraph on p. 45.) I avow, gentlemen, that I do not know what impression that made upon your minds, nor do I know either what impression it made on the mind of his lordship, but I avow that it seems to me that the whole of the argument of the learned Solicitor-General was more than amply answered by his own quotation. He has told you that this book for which we are prosecuted is directed against marriage. It is said that where distinct declarations are made regarding unmarried females, filthy and corrupt inuendoes are intended, but in pages 84 and 85 of Acton we have the most distinct declarations of this character, and corroborations in the most precise way of all that is put in Knowlton. I have now, for one single moment, before I take up another book, just to draw your attention to the character of the book I have been quoting. It is a book published by a man who was in his lifetime one who was accredited with the highest medical reputation, a man against whom either in his lifetime or afterwards there was never uttered the slightest suspicion of quackery, nor was such an insinuation ever urged. The person who reads this book will find it to be full of very painful things. I do not know whether my lord will think that I have the right to hand up to the jury such books as I quote from, where these things——

The LORD CHIEF JUSTICE : No, I think not.

MR. BRADLAUGH : You think not, my lord. That being so, I am prevented from putting in these books, and I am afraid that I shall in consequence, in the duty that lies before me, be obliged reluctantly, for the sake of the argument, to go line by line through the concurrent statements in other books till I have succeeded in impressing you with the defence upon which I have to rely. I am unable to put these books into your hands because——

THE LORD CHIEF JUSTICE: Because they are not evidence.

MR. BRADLAUGH: Just so, my lord, because they are not evidence, and that being the case, I have only the opportunity of reading them to you as part of my speech. But if I could hand you these books, or if I could put the authors of them into the witness-box, I should be able to show you conclusively that the charges made against this Knowlton pamphlet cannot be sustained. What an unfair position, then, am I in—what a position of difficulty compared with that of the Solicitor-General, who might have told you all these things, as well as saying the ill he did of this pamphlet. I do not say this by way of making any complaint, for since I am in this court I am willing to abide by its decision; but I am simply making the remark because the rules of the court prevent me putting before you these works, and I am reduced simply to telling you in the best way I can what they contain. I am sorry to be obliged to weary you, and to detain you from your usual occupations, while I have to go through book by book, of which some parts are as dreary as parts of books can be; and had not the learned Solicitor-General hurled the inuendo at us that we have made a deliberate attempt to corrupt the public morals, it would not be necessary for me to go through this pamphlet line by line to show that its statements are simply chaste abbreviations of those which are put at greater length, and more elaborated in other works written by the highest physicians and openly sold by the most respectable publishers. I only add one word in laying down Acton, if I may be permitted to do so, and that is that as far as my evidence is worth anything, there has never the slightest attack been made upon it, and no charge of obscenity was ever brought against it. The next book I shall refer to, not being able to hand it up, is "Notes on Uterine Surgery," by J. Marion Sims, which is published by the very respectable firm of Messrs. Hardwick and Bogue. Dr. Sims was a graduate of a university, had obtained a large number of very honourable distinctions, and held a very high position in his profession, and although I am not permitted to put this in evidence, I wish you clearly to understand that I am not quoting from some disreputable quack, or from some person who, for his own ends, would write and circulate any kind of obscenity. With this book I shall have to deal, step by step, or at any rate with so much of it as I think will con-

vince you into the belief that there can be no such charge as the obscenity or indecency maintained against Knowlton after hearing what Sims has written, or if you are not convinced of that, I shall not be able to comprehend the effect of evidence, or at any rate I shall wonder that the plainest possible statements that the English language is capable of can produce upon different minds so different results. Let me direct you to a paragraph on page 12 of the Knowlton pamphlet. I trust you will bear with me now; after the clear and explicit declaration of the Lord Chief Justice, that I cannot put in this medical evidence, the necessity that lies upon me in my speech to put fully before you everything which will entitle me to win a verdict at your hands. I have no wish, believe me, to keep you there a moment longer than is absolutely necessary, still less have I the desire to act in a manner unworthy of the fairness shown to us by the Court; but I am obliged, not only for myself, but also for my co-defendant—who is in this entirely in my hands—to do all that my poor wit will enable me to clear ourselves, and I have no right to allow one thing to escape to bring about the result. On the 12th page of the Knowlton pamphlet, near the end, you note the paragraph (reading it), and I now take you to page 323 and page 324 of Dr. Marion Sims. (Mr. Bradlaugh here read some extremely strong passages.) After that he gives—through several pages, and with great detail—a large number of cases of this disease, and goes on to describe all the operations of this kind which he has had to perform for the purpose of dealing with this which the learned Solicitor-General has put before you, and which he has chosen to allege is part of the filth which we have published. Dr. Sims enters upon this subject with great fulness of detail. Turn now to page 13 of the pamphlet, where Knowlton is dealing with the female reproductive organs. The learned Solicitor-General laid great stress, in his speech, on what he chose to call the obscene particularity of detail; but if I were able to put Sims into your hands, I should, I think, be able to show you that here are far fuller details, and that they are accompanied by a plate of everything described, in order that it should be more certainly understood. I will read the language of Sims, however, and ask you to compare it with the modest reference in Knowlton. (Mr. Bradlaugh then read page 181 and page 234 from Dr. Sims.) And then he spends exactly two pages and a half, which I will not weary you with, in

describing technically the whole of its position, its form, and its size, as well as thickness and capacity. I will still ask you to follow me carefully. We are still at page 12 of Knowlton and 181 in Sims. If you will look at Knowlton, you will see the exact correctness of the description. (Here Mr. Bradlaugh read another long extract, and held towards the jury box the illustrated plates in Sims' book). Go now, a few lines lower on, to page 13 of Knowlton, while I read a piece from page 204 of Sims. (Mr. Bradlaugh read another extract.) This subject is referred to by Knowlton on page 14, and on pages 181-2 of Sims; you will find how accurately he has written. I want, here, to press upon you—because it has been expressly referred to in the speech of the Solicitor-General in opening this case, and may be again referred to when he comes to reply, for he has the right of using every word in this pamphlet against us—that the charge made against Knowlton presses much more heavily upon Sims, for not only is there an enormously long description here, but, if I were able to hand this book up to you, I should show you that it is accompanied by a picture with the end in view of making the description more comprehensible. That which is put here in Sims with a bold completeness of detail, is delicately and chastely abbreviated by Knowlton, and yet you are called upon to believe that I and my co-defendant have set out with the intention of corrupting the public mind by publishing a pamphlet stating the fact in that guarded way. (Mr. Bradlaugh read further from Sims, page 182, and added), Gentlemen, I will not attempt to weary you with the whole of the pages, for it goes on to give every minutest detail: and yet, when the same facts, which to prevent disease, should be known by women, are so briefly stated in Knowlton, they are characterised by the learned Solicitor-General as filth, and I am prevented from showing you by evidence that the pamphlet is a pure work of medical instruction. Although I cannot help thinking that my case is one that should meet with your sympathy, I will not complain as to the disadvantage at which I am placed, for it is my duty to accept the regulations of the court. On the same page, I might read another extract, corroborating Knowlton on this point, but I will leave that, gentlemen. I might indeed occupy much more of your time with this page, but there is nothing in it which suggests sensual ideas to my mind in reading it, although some filthy-minded

persons have tried to manufacture a complaint—in using the word filthy I may have spoken too strongly—I will say that people entirely ignorant of medicine and medical works, or anything of the mass of detail that belongs to them; people who are only used to reading law books, have the impertinence to come here and call scientific facts filth. I avow I cannot understand how they can have come to that conclusion from reading this array of books (Mr. Bradlaugh here pointed to several piles of marked medical works, arranged round him, ready for reference), and if they have not read them, although they had notice six weeks ago that I should refer to them, it is more shameful still for the Solicitor-General to have used such language. I now bring you, gentlemen, to page 15 of the pamphlet; there you will find the subject treated of is menstruation. Sims also treats on the subject. (Mr. Bradlaugh here read at considerable length, from pages 39, 40, and 139 of Sims). I am endeavouring now to limit the words as much as possible to those of Knowlton, leaving out as much I can. Sims then goes on to give a large number of cases in illustration, which are painful, and adduces the reasons, with which I need not trouble you, but contenting myself with simply assuring you that Knowlton is chaste and delicate compared with him. We now come to page 16 of the pamphlet, and the same subject is spoken of on page 5 of Sims. You will notice, gentlemen, the very slight reference to pregnancy and menstruation, and the guarded way in which it is put by Knowlton. Sims on page 29 and 30, and on pages 380 to 385, gives with most full details several unpleasant cases which he investigated. I am told that Knowlton goes into minuteness of detail. I am surprised that the Solicitor could have ventured to say so if he had read this book. Listen to a passage of pp. 384 and 385 of this book of Sims, and tell me what you think. (Mr. Bradlaugh then read a long extract from Sims.) Compare all that with the delicate way in which Knowlton puts it—states the bare, actual facts. I do not think that the book has had the effect upon the mind of the Solicitor-General which it ought to have had, and I urge that he was utterly unwarranted in alleging that it was calculated and published for the purpose of corrupting the public mind. We are still on the same page of Knowlton, gentlemen.) Mr. Bradlaugh then verified further parts of p. 16 by Sims, pages 361 and 367, in each case showing the

superior style of the Knowlton pamphlet, of which he then took page 17. (The learned Solicitor-General talked of the particularity of detail; but if I had the power to put Dr. Sims in the box, I could, I believe, show you that he goes on to speak on all the same topics, accompanied on p. 363 by plates, clearly illustrative of their appearance, and when the learned Solicitor-General speaks of filth, and I find in the books of Carpenter, of Kirke, of Valentine, of Hilles, the same sort of descriptions on this topic, accompanied by similar plates, and that some of these books are put into the hands of girls for instruction and study at schools regulated from South Kensington, surely I have a right to complain of the use of such expressions. Yet I am indicted, and your verdict is asked for against me for the minute particularity with which we put these things. I do not think that I will weary you with the full description on p. 17, but if I could put the book into your hands you would, I am sure, say that the language of Knowlton is unmistakably most chaste and delicate when read side by side with this, notwithstanding the unsupported allegations of a Solicitor-General, who, perhaps, had not even read the pamphlet he vilified. I will go on now to page 11, the second paragraph—it is the first complete paragraph about the middle of the page—and refer you to page 340 of Sims, where I find similar declarations uniformly accompanied by matter which, when I come to deal with pages 19 and 22 of Knowlton, I shall have to read to you. (Mr. Bradlaugh read a long extract). The same sort of remarks are made by Carpenter, by Kirke, by Valentine, and in the “Ladies’ Own Companion,” which is issued by one of the most respectable homœopathic publishing firms in London, any of which can be bought openly and without question. Any number of cases in relation to this subject are given in the various books in which young girls have to be examined. In the list of subjects printed on the Government syllabus they have to deal with this, and they are to comprehend the results incident to pregnancy, and do you mean to tell me that the delicate references to the same subject used in this Knowlton pamphlet are fairly called “filth,” are more likely to corrupt the public mind or to destroy public morality? And how shall I speak when I am indicted, may be punished, may be sent to prison for doing so, and yet see all these unchallenged. I come now to page 19, where Knowlton repeats the same doctrines as are laid down in the paragraphs to which I have

referred. He then goes on to the question, difficult to treat here and I am afraid I must give you a case preceding the paragraph in Sims which I have annotated in connection with this in order not to be obliged to have to refer to the subject again. I will on the same topic take you to page 22 of Knowlton, and ask you where he uses one word which is impure, or puts one fact which leads you to think libidiously? Sims, on 340, 341, and 342 gives a collection of cases. Now I will ask you again, is not the language of Knowlton chaste and delicate in the extreme compared with that? Dealing with the same subject on page 372, Sims precisely states what Knowlton gives, and on page 197, still dealing with the same subject, he puts the words still more plainly, and he puts it that this is the medical view. If I were permitted to do so I would show you the plate in this page by means of which he describes exactly what he means, so that there is no possibility of misunderstanding, and yet I am told by the Solicitor-General, in this pamphlet I have given currency to the most abominable filth, minutely particular details, calculated to corrupt the public mind. Can that be so? Can the learned Solicitor-General have used such language and yet have read this book by Dr. Marion Sims, which I gave him notice, weeks ago, I should have to refer to? We are still dealing with page 19 of the pamphlet and I go now to page 182 of Sims, where he speaks more plainly and less delicately. (Mr. Bradlaugh read words.) I think I have now also disposed of page 22 of Knowlton, and I need not refer to it again. I come now to page 23, just after the words "John Hunter," about the middle of the page, and go on to the same subject on pages 25 and 26. I will read to you from Sims, who, after long and minute details, gives another series of plates, giving the fullest illustrative descriptions. (Mr. Bradlaugh here read from pages 116, 119, 363, and 372, of Sims). The same facts, however, as you see, are very guardedly and very quietly put by Knowlton at the bottom of page 26. Compare this with the language of Sims, and then say if Knowlton can be called indelicate. I must also trouble you with the whole of the paragraph, beginning page 29 of the Knowlton pamphlet. I am afraid I am asking you to listen to rather too much from Dr. Marion Sims, but, as I am prohibited handing you the book, I must read some of the passages, or you would never imagine to what extent they go. (Mr. Bradlaugh commenced reading

from page 350 into 351). He goes on there to give an enormously long description which I will not pain you with, and adds, on page 354, a plate of the foulest description, according to the theory of the prosecution, which, unfortunately, I must not put into your hands. But plates almost identical are put into the hands of boys and girls at school for the purpose of enabling them to study these and kindred subjects, and are even included among the list of prizes distributed to them. Such facts, I say again, are by Knowlton put in the simplest, most chaste, and delicate language, in his pamphlet. I will now read you a paragraph in Sims, on page 372, and refer you to the bottom of the same page in Knowlton; and on that I will also read you two from pages 381 and 387 of Sims, in which is given, in language as explicit as possible, all that is so briefly said by Knowlton. I will now take you to page 330 Knowlton, to the very last three lines of the page, in which, having stated the plain simple fact, you can easily compare his manner with the way in which Sims treats it. He tells you how he visited his patient, and how, at visit after visit, experiment after experiment was resorted to to discover the best way of ascertaining the facts. He goes on for something like two pages describing that, and I ask you whether, assuming the need of plates to aid in the examination of these subjects, Knowlton is not again and again far more chaste and cautious as to entering too minutely into extremely particular details? I now come to the question of sterility, which is dealt with on page 34 and the first paragraph of chapter 3. Sims says, on page 216, not only that Knowlton gives an accurate summary in a third of a line, but on this point he gives two plates for the purpose of showing what he means. Then you will find a fewer lines further down, on page 34 of the pamphlet, and on that I will again refer you to the exact corroboration to be found in the language used by Sims on page 39. (After reading, Mr. Bradlaugh said.) I must here ask you to remember that the learned Solicitor-General, when pleading against me, read a portion of the book on page 44 as one of the most filthy suggestions which he could conceive it possible to make in a publication. I am not myself unacquainted with medical technicalities, but I know the difficulty without a trained technical skill to pass a criticism upon these dry questions, and to make out a case to you which you will think sufficient; but I venture to say that we find here much more of what the learned gentleman

calls filthy suggestions than in the pamphlet for which I am indicted, and that, too, in a book not published by any common quack, but written by a high authority, and circulated by a publishing firm of the first-class. I say this book is much more calculated to deprave. But this book is circulated at a guinea or two, perhaps; do you mean to tell me that obscenity is measured by the price of a book? I am not pleading, let me crave to observe, that two blacks make one white, and that because one book is published, for which I am indicted, another book of a similar character should not be allowed to be issued; but I am saying, and I do most earnestly contend, that it is unfair to prohibit the circulation of a book merely because it is sold at a low price and distributed among the poor and ignorant for the purpose of improving their minds and instructing them in things they ought to know; and I say that I should not be held responsible for mere facts put in as clear and chaste a way as they can be. I now refer you to the language of Sims on page 5. (Mr. Bradlaugh again read.) Then let me ask you to read the paragraph on page 35 of Knowlton, against which the learned Solicitor-General directed so much of his choicest ire and indignation. You will see that the authority quoted by Knowlton is Dr. Dewees, and I may say that we have luckily just at the last moment procured a copy of his works, for it has been out of print a great number of years, and difficult to get. The remedies given by Knowlton were given on his authority; and on page 144 Sims prescribes exactly the same remedies; among them tincture of guaiac. And, really, gentlemen, it seems to me a little too much that you should send me out of this court branded as a criminal, and commit me to gaol for depraving the public mind, because I have given for the sum of sixpence information which for the last half-century has been given in various forms and shapes, and for printing a recipe as others have done; and because the eye of the learned Solicitor-General caught the word "cayenne" amongst other things, that must forsooth be evidence of the most gross immorality. I will now pass over several pages and go to page 38 of the pamphlet, because there are a number of things referred to there which are more fully given by other books; but I will make my remarks thereupon as short as possible, in what I fear must at briefest be a wearisome and long speech. I will take you to the instrument purchasable for a shilling, which is to be made a ground for convicting me;

and here let me say that I cannot help wishing that the learned counsel who has addressed you had not used language which was capable of being misunderstood. When you talk of an instrument in connection with such a topic instead of a harmless syringe, one of the simplest instruments, here recommended, the mind would be taken by the Solicitor-General's words to instruments familiarly known in medical jurisprudence, and used for the commission of crime. I venture to say it is outraging all reason and sense when you offer the suggestion that it is recommended here for a criminal or immoral purpose. I think, however, I may manage to save time if I take several paragraphs together, so I will take the paragraphs on pages 38, 39, 40, and 41, so as not to have to refer to them again. And, first of all, perhaps you would hardly believe, but I can assure you that in pages 375-6-7, 380-89, Sims in this book actually gives cases where the use of the syringe has been resorted to for the very purpose recommended in Knowlton, in that one case which is given on page 376. If details of that kind are fairly permissible in a book whose distribution and publication are not restricted, I do not see why I should be precluded from publishing statements so carefully worded as those of Knowlton. Oh, but it is said, such things excite sexual feelings. Let me say that I do not believe that they do anything of the kind. At any rate they do not produce any lascivious thoughts in my mind, but, on the contrary, I assure you that going through these details as I have had to do for the purposes of making my defence, produced upon me, unused as I am generally to such a class of study, the very same kind of revolution which is, I venture to say, passing through your minds at this moment, in being compelled to listen to the reading. A syringe can be bought for a shilling, and can be used for sanitary purposes, some of which are enforced on wretched women under police authority, but here, in Sims, we have plate after plate setting forth the manner in which it is to be used, and yet the pamphlet of Knowlton is brought into Court, because it suggests a similar use but in much more decent language, and is, therefore, characterised as "filth" by the learned Solicitor-General. Books of the very same character may be sold to the rich, but the poor are not to be allowed to get the cheap information because they can purchase it for a shilling.

THE LORD CHIEF JUSTICE: The argument of the Solicitor-General, do not understand me for a moment to say

that it cannot be met, was to this effect, that that which it is essential for medical men to know, is not essential for the general public to know, or at least it may not be, and that such information may be used to corrupt the public mind. The Solicitor-General did not say that those things were not to be found in medical works, nor did he argue, as far as I understood, that if those books were published to the world generally they would not be subject to legal consequences, but he said they were allowed to pass unchallenged because they were written for a particular purpose, to give the result of experiment and experience with the view of instructing, and, undoubtedly, in works of that character—works intended to give medical information—it is absolutely necessary to give those minute details to which you have referred. The argument is that it is unnecessary to give these details to the general public, and I refer to it because I think if the argument can be met it should be met, and if they are so given the tendency is to corrupt the public mind. It is, therefore, I think, of no use to multiply instances, and to pile illustration upon illustration without strengthening your argument. In every work intended for medical purposes, or to give instruction in medical studies, it is necessary that these details should be given to enable medical men to treat the diseases of the various organs, but I question whether the same information given to the general public may be of advantage to them, or whether on the other hand it is not calculated to influence them in an opposite direction. That is the argument I think you have to grapple with.

Mr. BRADLAUGH: Quite so, my lord. I agree that if it were possible for this proposition to be conceded in any way by the prosecution it would shorten the case very much—the proposition that there is no fact stated by Knowlton that is not stated in a variety of books, not only written especially for the medical profession, but that the whole of the details which I have given are in Carpenter's physiological school books in plain language, which is put into the hands of children, distributed by authority, and given away in the shape of prizes. If that proposition could be conceded to me it would relieve me from a considerable difficulty and the necessity of inflicting upon the Court and the jury a very long statement, though I trust that your lordship will not think that I have detained you too long.

The LORD CHIEF JUSTICE: Oh no, not at all. That was not my meaning.

MR. BRADLAUGH: If it is even admitted that these details are not entered into with greater particularity than is necessary for the comprehension of the subject I shall gladly relieve the jury of much that I had intended to say. The contention of the learned Solicitor-General is that we have gone into certain facts only for corrupting the public mind, and my proposition is that it is necessary to advocate checks upon over-population, and that it is necessary, for these checks to be properly understood, to give information to poor people, among whom the evil largely exists—information upon sexual and physiological matters, and that in doing this the incriminated pamphlet does not contain one word which is not for that purpose legitimate and necessary, not one word which is not pure and fit for the instructing of the poor and ignorant in these matters. That is why I put this proposition at the outset of my argument, and not for the purpose of any special pleading. I only want to show that every statement is legitimate and necessary to the subject treated, and as I cannot give in evidence the books, I fear I must further, unless in some fashion that proposition is granted to me, pile authority upon authority, as your lordship has observed, to cover my defence and to prove the accuracy of my contention. If the jury think I have said enough upon the subject I would not open another book before them. There is, I contend, nothing indecent, nothing which is not warranted by the matters treated, and we who feel ourselves called upon to face the issue, as the advocates of checks to over-population, contend that, moral or immoral as the book may be thought by others, this pamphlet states neither more nor less than is necessary or legitimate for the purpose.

THE LORD CHIEF JUSTICE: I do not think that any one would say that if this were purely and simply a medical work there would be any redundancy of details, or anything more than it is necessary for a medical man to know, and he would be among the most ignorant of his profession if he did not know them; but then the argument is that this is not a medical book, and that is the point which I think you should meet.

The Court adjourned for half-an-hour.

After the adjournment, Mr. BRADLAUGH proceeded: I have myself, with my co-defendant, gravely considered, as we naturally ought to do, any suggestion coming from

your lordship, and we feel the full force and weight of your lordship's suggestion. I am in this difficulty, that, having a little to plead this medical portion, not only for myself, but for the lady who has so ably defended herself, I feel that she relies a little—indeed, without presumption, I may say she relies entirely—upon any advice I may offer to her as to the conduct of these proceedings. I do not want to do anything which may in any way damage either her position or my own; and I think, therefore, I shall be consulting what is due to the Court, which has listened to us with very, very great patience, if I only make use of some of the books which I have here, and which, if I were to attempt to cite passages from them all, judging from the rate at which I have been able to deal with the two already mentioned, would take several days of the time of the Court, and add nothing to the force of what has been adduced. There are, however, one or two books which I think I ought to deal with.

The LORD CHIEF JUSTICE: By all means.

Mr. BRADLAUGH: If your lordship, then, will permit me, I will cite the works of Carpenter and Kirke as works which are being used in schools; and I think, if I take one of these works—namely, Carpenter's—it will suffice for the present, because what is found in the one is to a great extent found in the other. That is a book specially designed for young people. It is not issued for the professional use of students at a university or college, but, as I have said, it is intended for the instruction of young people generally. I also intend to make some comments on a book of Churchill's, which was partially alluded to by my co-defendant, and, with the exception of some references, without going into details, to Chavasse and Bull, I propose to make no further detailed quotations, thinking that we have at all events impressed the jury sufficiently, and feeling that we should not unduly take up their time, after the passages which I am sure your lordship will not think it impertinent in me to have read as I have from the medical works, to show that there had been nothing unfairly stated in the Knowlton pamphlet.

The LORD CHIEF JUSTICE: No, you may take it that you have shown that what is in Knowlton, if it were a medical work, would not be so full as other medical works treating similar topics.

Mr. BRADLAUGH: I feel that I should only be taking

advantage of the patience of the jury if, after that intimation from the Bench, I unduly pressed the other books. I will, therefore, only take Carpenter's "Human Physiology," a work by Burt Wilder, who was a professor in Cornell University, and also some small portions of Churchill's "Diseases of Women," for the reason partially referred to by my co-defendant. These are three large books in wide circulation, and there is no pretence whatever for saying that they are confined to medical men. Before I proceed to deal with them, you will permit me to say—and I hope I shall not unduly put it—that the pretence about the restriction of the circulation of medical books is as utterly hollow as it is possible to conceive. In addition to the works to which I have referred, there are some thirty or forty bulky works which I have very carefully compared with Knowlton's pamphlet. It was my intention to quote from those works, and to point out that they can be purchased with the greatest facility. They are published, some in Dublin by Hewitt, and some in London by Sampson Low and Co., Churchill, Macmillan, and Smith and Son themselves. One which is called "The Ladies' Manual of Homœopathic Treatment," is published by the Homœopathic Company in Moorgate Street—a highly respectable company. Certain details are contained on pages 15, 16, and 17 of that book. I have studied those details, and, while I do not want to characterise another book, I should say that they are almost grossly treated compared with the fashion in which Knowlton has treated them. But I quite agree with what has fallen from the Bench, that we should in no way strengthen our position here by simply going over book after book for several days, wearisomely to you and to myself. I will only put it to you that the richer can afford and do pay 5s., 10s., or even 21s. for a book; not that there is anything indecent in it, but simply because a woman does not like sometimes to mention to medical men things which this Ladies' Manual tells her, but which are matters of great delicacy. Now, look at the other side. Poor women—women whose claims I am here to advocate, and whose husbands and children are also my clients—they need the same information; but at the prices I have quoted it is beyond their reach. I cannot help thinking that if there were, as I believe there is not, any offence in the publication of such things as are published here—I cannot help thinking that it is a little hard in the City of London to single out for prosecution those whose

only desire is to teach the poor how to help themselves. The poor have their wants, the poor have their needs, the poor have their failings, the poor have their diseases, and the poor are the most numerous class of society. As a matter of fact, there is no restriction in the circulation of medical works at all. As a matter of fact, since this prosecution has been pending, Messrs. Churchill have issued special circulars, drawing attention to these works, and both they and Messrs. Smith and Son have circulated this book of Chavasse's, not simply as I have got it here, but divided into two parts and done up in paper covers, and scores of copies are to be found on every bookstall. I do not blame the publishers for utilising the notoriety given to the book. All I want to point out is the fact that, since these proceedings began, the publishers are issuing advertisements, and that there has been an increased sale of the work. There is no pretence whatever that it is meant for the medical profession exclusively. No fewer than eleven thousand of the last edition have been sold, and that is the eleventh edition of the book.

THE LORD CHIEF JUSTICE: What is the name of it?

MR. BRADLAUGH: It is Chavasse's "Advice to Wives," and deals particularly with menstruation, and the development of the foetus, and it treats also on pregnancy and conception. I do not want to say anything against Chavasse; but I think he has written a book to sell, with more padding and jokes than can be found in Knowlton's pamphlet—a book, in short, which, though not in any way of an obscene tendency, yet occasionally gives details in a very broad style. He deals also with the question of sterility, and indicates the remedies necessary to prevent it. The book of Dr. Bull's is of the same character; but on the whole I should regard it as a much superior production, though you find in every page the same subjects discussed. These books are to be seen on every bookstall in the country, and are circulating by scores of thousands.

THE LORD CHIEF JUSTICE: Are you sure they are sold by Smith and Son?

MR. BRADLAUGH: I am quite sure, my lord. At the same time I do not want to cover myself by imputations on other people.

THE LORD CHIEF JUSTICE: I am quite certain that the Messrs Smith would not sell a single copy of a work which they considered at all injurious to public morals.

MR. BRADLAUGH: I fully admit that. Both in London

and elsewhere the name of Messrs. Smith can be vouched for as being of the highest standing. My contention is not because other people have done worse than I have, that, therefore, I should be let off. My contention is that the rich have certain useful information within their reach which they have no more right to have it at their disposal for 1s. 6d. than the poor have at 6d. Chavasse's book, which, on the branches on which it treats, gives fuller details than Knowlton's pamphlet, is divided into two parts, one giving hints to wives, and the other hints to mothers, and the object of the division is to make the work cheap. It is, as I have said, done up in paper covers, and published at eighteen pence. It will be forwarded to any one on the receipt of stamps at Churchill's, Smith's, or at any bookstall, so that the question of restricted circulation in reference to this class of works is at once got rid of. I purposely limit myself in this case to three books only, hoping the jury will believe that I am not over-stating the truth when I say that I have annotated for reference nearly forty volumes. They over and over again cover every page of Knowlton, and I refrain from reading the passages simply because I acknowledge the justice of his lordship's observation that by doing so I should be piling fact upon fact *ad nauseam* without strengthening my case. Therefore I shall not do anything which the jury, judging as between man and man, may have anything to complain of. I shall take Carpenter's "Human Physiology," reminding you that that is a book recommended by the Committee of Council on Education in their directory, which regulates the establishing and conducting of science schools and classes. I feel bound to bring that book before you, because I cannot help regretting the point urged by the Solicitor-General—I will not say unfairly but strongly, and put by my lord, from the bench—that there is some difference between a work written, as my lord says, by medical men for medical men or students, or for people desiring to make themselves acquainted with the science of medicine, in which it may be necessary to use certain language for the sake of humanity, and to enter into a variety of details which are not pleasant reading for the general public. But, to use the analogy of my co-defendant, the details of the process of digestion and what takes place in that process, would not enable you to enjoy your dinner if you went into the study of them immediately before the dinner hour. Now,

Carpenter's "Human Physiology" is one of the books in which the young folks are to be examined, and of which many editions have been published. According to the directory of the Committee of Council on Education, this book is to be made one of the standard works for examination, and if the contention is to be made that the giving of the information contained in this book is obscenity, and that the tendency of giving that information is to corrupt and deprave the public mind, then you are landed in a difficulty as regards this case, because the whole of that information is given in the book which I shall bring before you. There is this to be said—and I hope I shall not neglect the view which his lordship put—that there is a distinction to be drawn. Carpenter's "Human Physiology," though given to young boys and girls in schools for the purpose of instructing them, among other things, as to what happens during sexual connection, and what happens after it, although it tells them how birth may be forwarded, and how it may be retarded, by giving illustrations in relation to it, the object simply is to instruct them so far, and there is no design in the book of inducing them to limit the number of their offspring. I hope I have fairly stated the point which his lordship put to me ; but there is one thing which I ask you to consider in giving your verdict, namely—Is the advocacy of all checks lawful, except the advocacy of such checks as involve the destruction of the foetus after conception or the destruction of the child after birth? I am not asking you to lay down the doctrine that Knowlton is altogether correct. A doctrine may be unscientific without being immoral ; and I repeat that the point which I desire to put to you is this, Is the advocacy of all checks lawful, except such as involve the destruction of the foetus after conception, or of the child after birth? I will take you first to page 11 of Knowlton's Pamphlet, beginning with the second small paragraph in the middle, where you will find a description of the female parts. In Carpenter's "Human Physiology," pages 1021, 1022, and 1023, you will find the same much more fully. I will not trouble to read a word of it to you, because the curious thing which struck me when I first commenced to compare Carpenter with Knowlton was that in nearly every respect the language was precisely identical, with the one exception that Knowlton was simply an epitome of Carpenter, cooled down. One reason perhaps was that Knowlton had to get all his facts

into a very limited space—I do not want to take more credit for the author than he deserves—and, therefore, he had to express them in very small compass indeed. To show that I am correct I will put to you an illustration about four lines down the paragraph, ending page 11. (Mr. Bradlaugh then read a long extract from Carpenter.) The author then goes into a description which covers several pages, and is as exact in accord with Knowlton as it possibly can be; and considering that Carpenter's book is used by children in schools, and has a number of plates and pictures of the organs described, it is remarkable that the same language is employed in both Carpenter and Knowlton, page by page, and step by step. Now, bearing in mind that one may overshoot one's mark by continually reading the same things, I will, although several other passages intervene, proceed to take illustration of puberty. It is given on page 15 of Knowlton. You will find that it says simply—"A girl acquires a more womanly appearance." On page 958 of Carpenter—and this is a book which is put into the hands of girls—you find the same thing thus stated. (Mr. Bradlaugh read a long extract.) Now, I put it to you, as a mere matter of fact, whether the few words "A girl acquires a more womanly appearance," is not the excess of delicacy compared with the other description contained in a book put into the hands of young boys and girls from 12 to 16, who are not only instructed in the book, but actually receive copies of it as prizes. The whole of the facts relative to menstruation are there stated with the excess of detail. Pardon me for a moment while I refer you to one passage in order to show how Carpenter deals with the sexual act itself, and I do so simply as an answer to the argument of the Solicitor-General as to the circulation of this book in girls' schools. It is on page 961 section 743, and refers specially to the function of the female which happens to be dealt with by Knowlton as you know. (Mr. Bradlaugh again read.) You find that Carpenter deals with such matters as are on pages 12 to 17 of the Knowlton pamphlet, and gives many pages of description with appropriate plates for the instruction of young girls, and I cannot help thinking that if such descriptions by Carpenter are considered advantageous to moral training, it is a little too hard to say that Knowlton's pamphlet is indecent. In Carpenter reference is also made to the changes which take place in the male. (Mr. Bradlaugh

here read from pages 952—953, section 734). In dealing with the sexual act, the particularity is much more extreme in Carpenter's than in Knowlton's work. I will not trouble you with reading one more word from Carpenter. I simply tell you that I have carefully marked page after page of his book, and I have selected passages which do not come within the range of ordinary medical works, but which are considered by the Science and Art Department of the Committee of Council on Education as fit subjects in which young men and young women are to be instructed and examined. The subjects, you will remember, I have already stated to you. I am unfortunately precluded, by the ruling of my lord, from putting this Government syllabus into your hands. I trust I am endeavouring as far as possible to save your time consistently with the merest approach to justice to my case. There is not a page of this pamphlet of Knowlton's relating to the female, her organs and functions, which is not over and over again covered by this volume of Carpenter's, and covered in such a way as to show that the latter writer wanted to make his book interesting. It is amply clear that Knowlton had no such object. He had no interest in making his pamphlet even approach indecency, and, on the whole, it is a dry book. Why, we have in court a cyclopædia of anatomy and physiology, published by Longmans, in which all the parts are given with a degree of particularity, and with plates to aid the comprehension, which was not limited in circulation solely among medical men. I will now refer—and not more than is absolutely necessary—to a book written by Burt G. Wilder, a professor of Cornell University, and published in London by Trübner, and in Boston by Estes and Lauriat. I have some knowledge of that Boston firm. It is as respectable as Trübner or Longman, and would not knowingly publish anything whatever of an improper character. The author says he wrote the book chiefly for students and unprofessional readers, and denies that the subject cannot be presented with safety to the minds of the young. On the contrary, he says it is a duty to enlighten the young on sexual physiology, in order that they may not be ignorant of matters of this kind. The book is not written by a quack. You may tell me that it is written by an American professor only. The Solicitor-General, eminent himself as a scientist, sneered at American doctors. I have been treated with great kindness in the United States, and feel bound to resent the slurs cast

upon American doctors. They are as highly educated, and possess as high characters in America as in London, and though, in this great city, from its population, antiquity, and wealth, there are special advantages offered, excelling most cities in the world, there are medical men of as much eminence and probity in New York and Boston, and in Paris and Vienna, as can be found in any city in England. It was my intention to refer to a large number of French and Italian books, and especially to the "*Elementi de Igiene*," by Dr. Paolo Mantegazza, one of the present deputies in the Italian Chamber, which defends, in the strongest terms, the checks on population advocated by Knowlton. I do not mention that fact by way of excusing myself; but if you put this case as a precedent, which I think you must, you must consider that in fairly dealing with it. Now, Wilder, who, in his work, gives the fullest physiological instruction, deals with the fact of celibacy, which is also dealt with at page 8 of Knowlton's pamphlet. In his book, written for the young, he says—[Here Mr. Bradlaugh read from pages 148 and 149.] Wilder's book, you will see, goes into far greater detail than the Knowlton pamphlet. Its motto is, "*Honi soit qui mal y pense*"—a motto which, if I may do so without impertinence, I would commend to the Solicitor-General and those who conduct this prosecution. On pages 30, 38, 40, and 49 of this book, which, bear in mind, is intended for young people, there are given the fullest descriptions, not only of the female organs, but of the male organs as well, with plates to explain them. The descriptions are very plain and explicit, and if they had been copied from some enlarged edition of Knowlton, they could not have been more completely in accord. I must repeat that Wilder's book has been sold in London by Trübner, and at Boston, by Estes and Lauriat, and that it is intended, not for medical men, but for young people. I think you will find there almost the exact words of pages 11, 12, 13, and 14 of Knowlton's pamphlet. I do not want to seem to savour of impertinence, and I do not want to read the extracts at all. But the passages are often word for word identical, except where Wilder is much more detailed, and there is, in addition to the letterpress, plates which it is impossible to mistake, and which are given in such a way that those who read the book could not help understanding the whole. And yet, I am told that particularity of detail is evidence of an intention to deprave and corrupt. What does Wilder

say? I will only give a brief summary. (Mr. Bradlaugh here read extracts covering much of pages 19 to 44 of the Knowlton pamphlet.) The Solicitor-General does not seem to know what Carpenter and Kirke have written, or that their lessons are taught in the Science and Art Schools of England, and yet we are sought to be prohibited from putting similar knowledge in the hands of the masses of the people at a cheap price. Now, for a moment, I will refer you to another work as to which there cannot be any pretence for saying that it is confined to medical men. It is a work on Anthropology, by Dr. Nichols, who says that it is such a book we would wish to see in the hands of every man and woman who is wise enough to profit by its pages. There is contained in that book exactly the same information as is contained in the works of Carpenter and Kirke, with pictures showing the different organs of the human body, so that there should be no mistake. One more topic I must allude to. In my allusions to Carpenter and Wilder, I have not done what I had sketched out in my brief, because if I had done so, there is not one line that would not have been as fully dealt with as in Marion Sims. But I think, in addressing the court and jury, I have no right to thrust upon them anything at unfair length. There now remains, not contention that we have highly coloured or coloured at all, but it is proved we have, or rather Knowlton has, softened down and chastened that with which he had to deal in the discharge of what he deemed to be his duty—if that were not practically conceded to us, I should have felt it necessary for my own sake and for the sake of the lady who is co-defendant with me, to have gone through every line at the risk of wearying you. But no such responsibility rests upon me. In this pamphlet there is no attempt at indecent statement. The only object is to teach people how to check population after marriage. Is it, then, I ask, such a book that you must give your verdict against it? I will refer you for an instant to a book by Dr. Fleetwood Churchill on "The Theory and Practice of Midwifery." There is also a book called "The Diseases of Women," by the same author, nearly to the same effect. The one portion I wish to allude to in each work is more as a measure of argument than as a measure of comparison. Dr. Churchill argues that it is lawful and morally right, in a case where you know that a woman is so diseased or deformed that she cannot on a future pregnancy bring into the world a healthy child,

so to operate upon her that future conception must be impossible. In addition to that, on pages 298 and 299, he argues that it is right, where you know that a pregnant woman is so much malformed, or is diseased to such an extent that she cannot bring into the world a healthy child at the full term, to procure what is sometimes called the premature delivery of the child by drugs or instruments, the object being to save the life of the mother or the child, or prevent the child being born alive so malformed that life would be a misery to it. Now, if that be right, I ask where is the iniquity of seeking to prevent the conception of children at all, whose life, if created, will be a misery to them and to others? I am inclined here—and I hope by so doing I shall not have done injustice to the cause—I am inclined to abandon the whole of the books I had intended to rely upon in addressing you. I am inclined to abandon them, because if I go through them, I must occupy you for several days, and I do think, with a jury and judge so patient and kind as you have been, I have no right to take up so much of your time. I ask you, then, to consider the issues which I have put to you already and which I put to you again, viz., Is over-population the cause of poverty? Is over-population the cause of misery? Is over-population the cause of crime? Is over-population the cause of disease? Is it moral or immoral to check poverty, ignorance, vice, crime, and disease? I can only think you will give one answer, that it is moral to check these evils. You may say: Try to restrain them, like Malthus, by late marriage. Ay, but even to get late marriage, you must teach poor men and women to comprehend the need for it, and, even then, if you get real celibacy, Acton and others will tell you what horrible diseases are the outcome of this state of things. Really, you never can get even celibacy. You know what takes place in London and Paris. I have passed through Naples and Rome, and I have been shocked at being stopped by lads at night. In Florence, in Berlin, in Paris, you all know what arises from this pretence of celibacy. Even in our own large centres of population, such as Dublin, Edinburgh, and Glasgow, you know what this false pretence of celibacy means. Take the case of Birmingham as an illustration. Walk through the streets of that city between nine and eleven in the evening, and as the gaslight shows the flaunting shame, tell me whether celibacy is a reality or a sham.

Tell me whether or not that terrible word "prostitution," written everywhere in letters of festering curse, is not a disfiguring scar upon the surface of society. It is said that this pamphlet tries to defend immorality. You must contradict every page of it—ignore every word in it—to warrant that assumption. You may say it is very unfair, for example, that the agricultural labourer should have children to burden the poor's-rate. But put yourself in the position of the agricultural labourers. They have not the training and education that you have, and sometimes mere sexual gratification is the only pleasure of their lives. They cannot read Virgil; they cannot read Dante. They cannot listen to Beethoven; they cannot listen to Handel. They cannot go to a musical reunion; and they cannot visit a sculpture gallery. They have no time occasionally to run across the Alps. They have no opportunity of finding recreation in the Pyrenees. They cannot yacht in the North Sea. They cannot fish for salmon at New Brunswick or St. John's. They are limited to their narrow parish bound, and their bound is only the work, the home, the beerhouse, the poorhouse, and the grave. We want to make them more comfortable; and you tell us we are immoral. We want to prevent them bringing into the world little children to suck death, instead of life, at the breasts of their mother; and you tell us we are immoral. I should not say that, perhaps, for you, gentlemen, may judge things differently from myself; but I know the poor. I belong to them. I was born amongst them. Among them are the earliest associations of my life. Such little ability as I possess to-day has come to me in the hard struggle of life. I have had no University to polish my tongue; no Alma Mater to give to me any eloquence by which to move you. I plead here simply for the class to which I belong, and for the right to tell them what may redeem their poverty and alleviate their misery. And I ask you to believe in your heart of hearts, even if you deliver a verdict against us here—I ask you, at least, to try and believe both for myself and the lady who sits beside me (I hope it for myself, and I earnestly wish it for her), that all through we have meant to do right, even if you think that we have done wrong. I have to put to you this proposition: you jurymen are to be convinced that we are guilty. If a shadow of doubt go through your minds you have no right to make a deliverance of guilty against us; and unless you

feel we are the fit associates of those horrible Holywell Street men, who circulate foul literature day by day, and that we are deserving even of being put in the scale with those who circulate obscene prints, your deliverance must be one of not guilty. It is not a question whether you agree with the methods of checking population; it is not a question whether you are Malthusians or anti-Malthusians. I put it to you, and I ask you to consider it carefully, that the question which you have to determine is this:—Is the advocacy of all checks to population lawful, except such as advocate the destruction of the *foetus* after conception, or of the child after birth? Is it possible to preach abstinence and prudence to the poor without instructing them in the various matters of physiology which have been dealt with in this pamphlet? There is not one line in it which goes beyond what is legitimate or necessary. Is there any pretence whatever for saying that we have given any sort of colouring to it which would make it otherwise acceptable? My co-defendant referred, in earnest language, to the letters which she had received from women, and clergymen, and others, throughout the country. I, too, have received many warm words of sympathy from those who think that I am right. It is true many of them may be ignorant people, and therefore may be wrong; but they have written to encourage me with their kindly sympathy in my pleading before you. If we are branded with the offence of circulating an obscene book, many of these poor people will still think “No.” They think such knowledge would prevent misery in their families, would check hunger in their families, and would hinder disease in their families. Do you know what poverty means in a poor man’s house? It means that when you are reproaching a poor and ignorant man with brutality, you forget that he is merely struggling against that hardship of life which drives all chivalry and courtesy out of his existence. Do not blame poor men too much that they are rough and brutal. Think mercifully of a man such as a brick-maker, who, going home after his day’s toil, finds six or seven little ones crying for bread, and clinging around his wife for the food which they cannot get. Think you such a scene as that is not sufficient to make both himself and her hungry and angry too? Gentlemen, it is for you, in your deliverance of guilty or not guilty, to say how we are to go from this court—whether, when we leave this place, if you mark us guilty, his lordship may feel it to be

his duty to sentence us, and put upon us the brand of a doom such as your verdict may warrant; or whether, by your verdict of not guilty—which I hope for myself and desire for my co-defendant—we may go out of this court absolved from that shame which this indictment has sought to put upon us. (There was applause in court at the conclusion of Mr. Bradlaugh's address.)

MR. BRADLAUGH: I do not intend, my lord, after the intimation which your lordship has been good enough to give me, to offer any evidence that would really be in any way unnecessary. There are three or four witnesses only which I will call, with the permission of your lordship. If your lordship should think that I should briefly state the character of the evidence I am about to offer to the court and the jury, and you should think such evidence to be inadmissible, I would ask your lordship to make a note of the point, so that, if necessary, we may raise it afterwards. I intend, then, to call Miss Vickery, a medical student in London and Paris, for the purpose of proving a number of facts that have come within her own experience as a medical student. I shall also put in the box Dr. Drysdale, to give evidence of a similar character, because his experience is much wider, and perhaps I shall call the well-known publisher, Mr. Bohn, to give his experience in London and elsewhere regarding the publication of such works as those of Dr. Carpenter, or of this pamphlet by Dr. Knowlton.

THE LORD CHIEF JUSTICE: It is impossible to tell exactly beforehand what the evidence may be, and therefore I think you had better call the witnesses, and any objection that may be raised can be considered when it is made.

MR. BRADLAUGH: Very well, my lord; I will now call Miss Vickery.

Miss Alice Vickery was examined by Mrs. Besant.

MRS. BESANT: I presume, my lord, I can put any question until some objection is raised. To witness: Your name is Alice Vickery?—It is.

And you reside at number 333, Albany Road?—Yes.

Are you a chemist by examination of the Pharmaceutical Society of Great Britain?—I am.

And the first lady, I believe, who passed the regular examination of that Society?—Yes.

Did you study midwifery and diseases of women at any London hospital?—Yes; at the Women's Medical College.

For how long?—I have studied medicine for six years.

Are you at present a fourth-year student of l'École de Médecine at Paris?—I am.

Have you attended practical midwifery at the City of London Lying-in Hospital?—I have.

Have you received a certificate for this?—I have.

You have sent your certificates to Ireland, I believe, for a special purpose?—Yes, but I wrote for them, and have them with me.

It was intimated to me, my lord, that they had been sent to Ireland, as the witness intends to go up for the Dublin examination. To witness: Do you produce it?—I have it here.

Have you also the certificate for midwifery of the Obstetrical Society of London?—I have.

Do you produce it?—I can do so (producing papers).

Have you attended hospital practice for several years in London and Paris?—I have.

And attended the practice of Surgery, I believe, under the famous Professor Verneuil of Paris?—Yes.

And you have devoted some six years of your life, you say, to these studies?—I have studied at least six years.

Have you read the pamphlet which is the subject of the present charge?—I have.

With the means of judging derived from the experience of which you have told us, do you consider this pamphlet to have been written by one well-acquainted with medical science at the date of its publication?—Most decidedly I should say it had been written by one well acquainted with medical science nearly 40 years ago.

You consider that it is a work written by a competent medical man for general circulation?—I think it a most important work.

What I wish to ask you is this: Do you, from your own personal knowledge and experience, consider that, writing 40 years ago, his knowledge of physiology was accurate and real?—Certainly. He must have been a most competent and experienced man.

In your hospital experience have you any knowledge of the effects of large families?—I have seen a good deal of them.

You are speaking from the experience of which you have told us, when you say that?—I am speaking from my own experience and knowledge. I am not dealing with books,

but with facts. I am speaking of my knowledge of families and of the mothers who bear them.

Then your opinion of the evil effects of over large families is drawn from your own experience, and you know what the effects are upon mothers and children?—I have studied the question from that point, and there is no doubt, in my mind, from the experience I have gained in hospitals, that a very great deal of suffering is caused by over child-bearing to the mothers themselves; to the children, because of the insufficient nutriment which they are able to give them and to the children before birth from the condition of the mothers.

Have you found, in your experience, any bad result to the health of the mother from over-lactation of children amongst the poor?—Most certainly. There are many evils resulting from over-lactation. One thing is a falling of the uterus, and another the permanent weakening of the mother's health.

The next question I have to ask you is a most important one. It is: Is it within your own knowledge and experience that poor married women desire very often to check the increase of their families, and that they very frequently seriously injure themselves, by adopting detrimental means, such as deleterious drugs, from complete ignorance of those means which might be adopted without any injury to their health?

The LORD CHIEF JUSTICE: That is a very complicated question, and if it is competent to put it at all, I think it should, if possible, be simplified.

Mrs. BESANT: I am afraid, my lord, it is rather complicated, but I think I could, if you would allow me to do so, divide it. To witness: You have told us that, in your opinion, the health of married women is sometimes injured by over-childbearing. Are you aware whether they ever adopt any means to check the increase of their families?—Most certainly.

Do you say that from your own experience?—I am quite aware that they sometimes do so.

Do you mean apart from your own experience, or have any instances come within your own knowledge?—I have in my own experience instances where women have taken means to prevent conception, and after it has taken place to do away with the results.

Do you know if this is done by the advice of the husband ?
—Yes, by his advice to prevent conception.

Is it generally considered that over-lactation is one of those means?—It is ; I have known many women who have continued to suckle their children as long as two years, and even longer than two years, because they believed that that would prevent them from conceiving again so rapidly.

How long is it usual to suckle a child?—It depends ; in some cases a year. Nine months would be as much as could often be done in safety, but a child might in most cases, I think, be suckled a year without injury.

The LORD CHIEF JUSTICE : Is that the usual time for suckling children among women generally, or among the poor ?

The WITNESS : Twelve months is a reasonable time, but, as I have said, that may in some cases be excessive.

The LORD CHIEF JUSTICE : And when it is double that time, is it very injurious in its effect ?

The WITNESS : It is, my lord, on the mother as well as on the child.

Mrs. BESANT : And you say that that method of warding off an increase is fairly often adopted by poor women?—Yes, I should say so from my own experience.

You tell us only from your own experience. Have you had women under your care who have been suffering from the result of over-lactation?—I have.

What is the result?—The result is very great weakness and general debility, and these are the fruitful source of other diseases.

The LORD CHIEF JUSTICE : That is if pregnancy occurs during the period of lactation?—Whether it does or not, my lord.

Mrs. BESANT : And you have found that pregnancy does occur in spite of over-lactation?—Certainly, over-lactation is no preventive whatever against pregnancy.

The LORD CHIEF JUSTICE : But many people, you say, think that it is?—Many think it is, my lord, but it is not.

Mrs. BESANT : And is the result of that ignorance an injury to the mother as well as to the suckling child and to the child unborn?—Certainly ; it results in weakness to the mother, very often excessive discharge, which is very weakening to the child in the womb, and is the cause of rickets in children, and that leads to numerous other disorders.

That is the direct result, in your opinion, of trying to

check an over-increase of family without the physiological knowledge of how to do so without dangerous results?—Certainly.

The LORD CHIEF JUSTICE : You must draw the conclusion in your summing up.

Mrs. BESANT : Certainly. I hope, my lord, that I have not asked any question which is illegal, and not according to the courtesies of the bar ; if I have done so I hope your lordship will at once give me some intimation of it, so that I may know where I err.

The LORD CHIEF JUSTICE : I have not stopped you so far, because I see a gentleman behind you (Mr. Douglas Straight) who will, if there is anything of that kind, put a stop to it with promptitude.

Mr. DOUGLAS STRAIGHT : My lord, I have not interrupted hitherto because I am anxious that everything should be asked in this case which comes within the limits of the defence under the most liberal interpretation.

Mrs. BESANT : I would not do an unfair thing under any circumstances, if I knew it, and I desire to keep within the four corners of the legal restrictions of the court if possible, but I might do so from lack of legal knowledge, so that I hope I shall be stopped so soon as I contravene them. To witness : Have you any experience on this head in Paris?—My experience there is only small ; I have not much experience of that kind in Paris, because there, as a rule, families are very small indeed ; I have known very few women there who have had more than two or three children.

Mrs. BESANT : What, if any, is your experience on that point?—My experience on that point is not so large as to entitle me to offer a very decided opinion ; I have been engaged in the study of medicine and surgery in Paris, and I have not had there any particular practical obstetrical experience. What obstetrical experience I have has been gained in London, and that will not enable me to give any opinion worthy of weight as to the circumstances obtaining in Paris.

You are aware, I suppose, from what experience you have had, that there are in Paris married women whose husbands consent to the use of mechanical means for the restriction of their families?—So far as my own knowledge goes, I cannot answer either one way or the other ; but my patients have told me more than once that their husbands have suggested means for preventing conception.

They told you that it was so?—I have heard it in several cases.

I am going to ask you a rather curious question, but I mean no discourtesy. Is it your experience among your fellow-students that knowledge of physiological details tends to deprave and corrupt?—Most certainly not.

Have you found that women possessing such knowledge are less pure-minded than the ignorant?—Oh, no.

The LORD CHIEF JUSTICE: But those would be strong-minded ladies, Mrs. Besant.

Mrs. BESANT: I hope, my lord, that all women are strong-minded enough not to use knowledge for an improper purpose. To the witness: Is it your opinion that such knowledge, where it exists, is used for improper purposes?—No.

Cross-examined by Mr. BRADLAUGH: With the medical experience of which you have told us, are the statements of fact in relation to disease and the remedies for those diseases fairly stated in the pamphlet which you say you have read?—Most certainly.

Most certainly. Speaking solely from your experience of medical treatises, would you describe the physiological portions of this pamphlet as highly-coloured or over-stated?—Certainly they are not highly-coloured in comparison with other books that I have read both in Paris and in London. Compared with these, they are not highly-coloured, but very mildly and quietly put.

Mr. DOUGLAS STRAIGHT: I have no question to put.

Dr. Drysdale was called and examined by Mr. Bradlaugh:

Mr. BRADLAUGH: Your name is Charles Robert Drysdale?—Yes.

Are you a member of the Royal College of Physicians of London, and a Fellow of the Royal College of Surgeons?—Yes, I am.

Are you also Consulting Physician to the Farringdon General Dispensary of London, of which Alderman Figgins was recently chairman of Committee?—I was physician of that Society for many years, and I am now consulting physician to it.

You are also, I believe, Senior Physician to the Metropolitan Free Hospital of London, and Physician to the North London Consumption Hospital?—Yes.

And physician to the Rescue Society's Lock Hospital?—I am.

Now tell me, have you written several medical works?—Yes.

And you have been a long time in practice?—For many years.

May I ask you, have you read this pamphlet which is the subject of the present charge?—Yes, I read it many years ago; I cannot say how many, perhaps twenty. And so far as that goes I read it again only last night, because I thought I might be examined upon it to-day.

Well, to your knowledge, this book was published at least twenty years ago?—I have been in London some twenty-five years, and I know I read it shortly after I came, and that must have been a long time—at least twenty years ago.

Guided by the medical experience of which you have told us, do you consider it a fair work on the subject on which it professes to treat, and are its statements accurate?—I have always considered it an excellent treatise, and I have found among my professional brethren that they have had nothing to say against it.

As a medical man of position and experience, do you judge that it is written by a competent medical man?—It is certainly written by a physician, and an excellent man. Considering that it was written forty years ago, when it is thought that people did not know so much as we do—although I do not believe that we are so very far in advance of the men of those days—the writer must have been a profound student of physiology, and far advanced in the medical science of his time.

This is your professional opinion of the scientific merit of the book?—It is, and it is the opinion of many men in the profession?

The LORD CHIEF JUSTICE: You can only speak from your own experience.—Certainly, my lord.

The LORD CHIEF JUSTICE: Is there anything in the pamphlet calculated to raise libidinous feelings?—On the contrary; no one reading the book would be affected in that way.

Mr. BRADLAUGH: If I might introduce my own personal experience, my lord, that is exactly what I have felt in reading these medical books.

The LORD CHIEF JUSTICE: Is there, do you think, anything prurient about it?—Certainly not. It is a most excellent little book.

Mr. BRADLAUGH: Have you, as a medical man, much

experience, or any experience, amongst the poor of London?—A great deal too much, unfortunately. I have seen nothing but poverty since I came to this great metropolis.

Have you any experience as to poverty being productive of sickness, especially among the poorer classes, by the production of large families?—As I have already told you, my professional life has been amongst the hospitals for many years, and that has led me into a situation of contact with the poor of this city. I have been obliged to see what a miserable condition there is of squalor, utter distress, and sickness, even in the great metropolis of the empire.

Has your experience connected this circumstance with the large families which the poor generally bear?—Yes, certainly.

Witness here referred to some papers in his hand; whereupon,

Mr. STRAIGHT asked : What are you looking at ?

Dr. DRYSDALE : I am only referring to some notes. May I not look at them ?

Mr. STRAIGHT : I am afraid you must put them away, and trust to your memory.

Dr. DRYSDALE : I am much obliged to you ; but I do not know who you are. I would rather be guided by my lord than by you. (Laughter.)

The LORD CHIEF JUSTICE : I think you may take it from the learned counsel. I do not think there has been any desire as yet to act unfairly on either side.

Mr. BRADLAUGH : I am afraid you cannot refer to your notes, Dr. Drysdale. So, if you will kindly, from your own experience, answer my question——

Dr. DRYSDALE : Then I suppose I must put my notes away, my lord ?

The LORD CHIEF JUSTICE : Unless they were put down fresh from memory.

Dr. DRYSDALE : That is just what I have done, my lord.

Mr. BRADLAUGH : Can you say, from your own experience, that poverty and preventible sickness exist among the poorer classes in consequence of large families ?

Dr. DRYSDALE : I have been continually obliged to lament the excessive rapidity with which the poorer classes bring unfortunate children into the world, who, in consequence, grow up weak and rickety. You see such children suffering from the rickets and in a very unfortunate condition. Sir

William Jenner has written a great deal upon this subject, and he used to say, what my experience has continually confirmed since, that when a working man marries, the first child or two look very healthy, whilst the third will look rickety because the mother is not able to give them that proper nourishment which she lacks herself. And so with both the fourth and fifth. They get more and more rickety, and if you search the courts and alleys of London you will find great numbers of children whose life is simply a pain to them. If the mother had only had two children she could have supported them well enough, but when three or four are born they get that terrible disease—the rickets—which is a great cause of death in London, a much greater cause than is generally supposed. Many children supposed to die of measles, and other infantile diseases, really die of rickets. In the case of a healthy child such a disease as measles passes off without much damage, but when it attacks a weak and rickety child the child dies, the death is ascribed to measles, instead of the more largely contributing rickets. Hence the death-rate is largest in large families.

MR. BRADLAUGH: Have you read the essay on population by Mr. Malthus?

DR. DRYSDALE: I read it some thirty years ago; perhaps more.

MR. BRADLAUGH was proceeding to ask whether it was a fair summary of Mr. Malthus's views to say that population was necessarily limited by the means of subsistence, and as to the operation of checks, when——

THE LORD CHIEF JUSTICE said he scarcely thought the question a fair one.

DR. DRYSDALE said: One fact I will mention to draw the attention of yourself and jury to the very important point of infant mortality. That is a very interesting point indeed. With all our advances in science we have not been able to decrease the general death-rate in London. Twenty years ago it was 22·2 per thousand persons living. In 1876 it was almost exactly the same, being, in fact, 22·3. Instead of dying more slowly than we did twenty years ago, we die a little faster. That fact might seem to be a great disgrace to the medical profession, and to those who had to advise as to the public health. Indeed, it has been asked, what is the use of public health officers at all. The real reason of this increase in the death-rate is, that the children of the poor die three times as fast as the children

of the rich. If all the parents of the children were as well off as, say the gentlemen of the bar—(laughter)—or of the special jury, the consequence would be that the number of children that would die would be very small indeed. Mr. Hanson has pointed out that to every 100,000 children amongst the richer classes—which would, of course, include the barristers—(laughter).

The LORD CHIEF JUSTICE: And solicitors, too, I should think—(laughter).

Dr. DRYSDALE: And solicitors, too, my lord, no doubt—in 100,000 children of the richer classes, it was found that there were only 8000 who died during the first year of life; whereas looking at the Registrar-General's returns we find that 15,000 out of every 100,000 of the general population die in their first year. If you take the children of the poor in the towns you will find the death-rate three times as large as among the rich—instead of 8000 there would be 24,000 among the children of the poor. So that you see, the children of the poor are simply brought into the world to be murdered. Hence, on the general average, we do not increase in longevity. The great number of poor people we have accounts for the rate of mortality being kept as high as it has been. If we were all brought up we should live to about an average of 80 years—(laughter)—except we died by accident—(laughter).

Mr. BRADLAUGH: Have you any experience as to whether large or small families prevail in France?

Dr. DRYSDALE: I have lived there much, and I have been to France every year for the last fifteen years; and once took the case of 100 of the most famous gentlemen of l'Ecole de Médecine. Not one had more than three children. Most of them had not more than two; and I took this as a little index as to the rest of France. French statistics show that there are not more than two children to each family, on an average. They never think of having more than two or three children.

Mr. BRADLAUGH: Do you happen to know, from your own experience, whether checks to population of the character referred to in this book are adopted by the peasant families in France?

Dr. DRYSDALE: I should like to know if I am allowed to say what I like? (Laughter.) Will it be safe? (Loud laughter.)

Mr. STRAIGHT : If it will re-assure the witness, I may say that it will be quite safe so far as I am concerned.

Dr. DRYSDALE : I do not know, I am sure. (Laughter.)

The LORD CHIEF JUSTICE : You can only state what are the facts.

Dr. DRYSDALE : I mean : is there any privilege in a witness from being prosecuted ? (Loud laughter.) I should like to know I shall not be prosecuted by the Government.

Mr. STRAIGHT : If it is any satisfaction to Dr. Drysdale, I will not prosecute him. (Laughter.)

The LORD CHIEF JUSTICE : But we do not know who your clients are, Mr. Straight.

Mr. STRAIGHT : I think there is not much doubt about it.

Mr. BRADLAUGH : I have much doubt. (Laughter.) You have told us as to the number of children in French families. My question is now, whether your French experience, as a medical man, enables you to say whether or not checks of the description mentioned in this pamphlet are used by the French peasantry ?

Dr. DRYSDALE : The first check mentioned in the pamphlet is used universally.

Mr. BRADLAUGH : It is, perhaps, not necessary to read out this check ?

The LORD CHIEF JUSTICE : I think not.

Mr. BRADLAUGH : If the jury refer to page 38 of the book, they will find this check specified, and that will be sufficient. To the witness : You say that that check is largely practised in France ?

Dr. DRYSDALE : It is practised by almost every male in Paris, and all over the country.

Mr. BRADLAUGH : I believe you are a Member of the London Dialectical Society ?

Dr. DRYSDALE : I am.

Mr. BRADLAUGH : Were you present on the 1st of July, 1868, at a meeting of that Society ?—Witness (after referring to the minutes) : I was.

Mr. BRADLAUGH : Was Lord Amberley present ?

The LORD CHIEF JUSTICE : I wouldn't go into that, Mr. Bradlaugh.

Mr. BRADLAUGH : Very well ; then I won't press one word more

Mrs. BESANT (to witness) : You have stated that you have had a large English hospital experience, and a wide experience amongst the poorer classes : is it within your experience

that any attempts are made by mothers to check the increase of their families?

Dr. DRYSDALE: I hardly ever go to my hospital, where on a certain day of the week I usually see about 80 or 90 women, that there are not 5 in 6 cases of women who have suckled children for 18 months or two years in order to prevent conception.

Mrs. BESANT: That is the reason they give for suckling their children so long?

Dr. DRYSDALE: They will tell you so if you ask them quietly; but they would probably give some other reason if other people were present. I tell them it is not a good way to act, and advise them to find out a better.

Mrs. BESANT: And the effect of this over-lactation on the child at the breast?

Dr. DRYSDALE: It is robbing the child at the breast of its proper food, which ought to be more substantial than the milk of the breast.

Mrs. BESANT: And what is the effect on the unborn child, supposing the mother conceives during the time she is suckling?

Dr. DRYSDALE: It suffers from want of nourishment because it does not get enough blood, which should go to feed it before birth.

Mrs. BESANT: What is the effect of very rapid child-bearing upon the mother herself?

Dr. DRYSDALE: You very often see women worn to death by getting children too rapidly. They hardly seem fit to keep up their own lives, and very often fall into consumption.

Mrs. BESANT: Is one of the results of over-large families to gradually undermine the constitution?

Dr. DRYSDALE: I think so among town mothers, though a strong woman, with plenty of food, brought up in the country, might, without much injury, have a large number, say, twenty-one. (Laughter). Oh, I have known many women with twenty or twenty-one children, all living. (Loud laughter.) A strong countrywoman might, perhaps, have twenty-five—(laughter)—but among the majority of cultivated women, and women brought up in towns, that would be impossible.

Mrs. BESANT: When the father's wage is 13s. a-week, would twenty-one children be healthy?

Dr. DRYSDALE: To bring so many children into the world,

under such circumstances, I should think one of the greatest social crimes a man could commit. I should look upon it in the same light as habitual drunkenness and other social crimes.

Mrs. BESANT: Is not falling of the womb—to use the common expression—very common amongst poor women?

Dr. DRYSDALE: It is extremely common. Indeed, when I was obstetrical assistant at Edinburgh, it was one of the commonest diseases among women—the principal one, in fact. Women ought never to get up from confinement for some weeks after the child is born; but these poor women are so utterly unable to do without work that they are compelled to get up in a day or two. The womb, being full of blood, falls down and produces infirmity for life.

Mrs. BESANT: Have you any knowledge as to endeavours among women of the poorer classes to procure abortion?

Dr. DRYSDALE: It is not alone among the poor. I have known it, time after time, amongst educated ladies, who have taken most drastic medicines to try and get rid of the effects of conception.

Mrs. BESANT: Would it not be better to prevent conception than attempt to procure abortion?

Dr. DRYSDALE: To procure abortion, I consider, is almost as bad as murder. But I do not see any crime in preventing conception, otherwise those who remain unmarried should all be prosecuted. (Loud laughter.)

Mrs. BESANT: Leaving that point, and returning to another part of my opening address, where I dealt with over-crowding—have you, in your own experience, seen many cases of over-crowding?

Dr. DRYSDALE: Near to my dispensary in Holborn I have seen too much of it. In the neighbourhood of Gray's Inn, where these gentlemen of the bar abound (laughter)—and these gentlemen of the bar might see for themselves if they would (laughter)—I must confess to have been ashamed to find such an amount of misery existing there from over-crowding. I wish that two or three gentlemen would only take the trouble to go into the little courts and alleys off Chancery Lane and Gray's Inn Lane and see the frightful misery and crowding there as I have seen there. I have seen six children in one room all huddled up together, and all down with typhus fever, the same room being used by three adults; I have seen such things repeatedly, over and over again.

Mrs. BESANT : What is the largest number of human beings you have seen crowded into one room ?

Dr. DRYSDALE : That is the largest—six children and three adults, with only one bed.

Mrs. BESANT : Is it your experience that typhus fever spreads most rapidly in crowded rooms ?

Dr. DRYSDALE : The great reason that typhus fever is so terrible a disease is that people are crowded. In all zymotic diseases, if people are crowded together, when one gets it they all get it.

Mrs. BESANT : Then large families actually produce disease ?

Dr. DRYSDALE : It is impossible to have health with large crowded families.

Mrs. BESANT : Does not over-crowding give rise to a terrible amount of sexual vice amongst the young of both sexes ?

Dr. DRYSDALE : I do not know that of my own experience, but one can scarcely doubt that that would be the case. I am surgeon to the lock ward of a Hospital for fallen women, and I know from my own experience there that prostitution is very often brought about in consequence of over-crowding.

Mrs. BESANT : The associations of over-crowding corrupt the young mind, I suppose, and loss of modesty is followed by prostitution ?

Dr. DRYSDALE : They do not know what modesty is.

Mrs. BESANT : Do you know anything of disease caused to young children by being compelled to work at a very early age ?

Dr. DRYSDALE : You see, children in big families are taken out to work very early, and premature exertion often injures them for life. It seems to me I have had numbers of cases of that kind. Children are not fit to do very much work so long as they are half-developed, and early death is often the consequence.

Mrs. BESANT : But I suppose they must either work to death or starve to death ?

Dr. DRYSDALE : There is no doubt hosts of children are worked to death.

The witness then stepped down.

Mr. H. G. BOHN was next called and sworn.

Mr. BRADLAUGH : Your name is Henry George Bohn, I believe ?

Mr. BOHN : Yes,

Mr. BRADLAUGH: And you were formerly, and until latterly, a publisher in a very large way of business?

Mr. BOHN: Yes, for about sixty years.

Mr. BRADLAUGH: And a series of works, called "Bohn's Scientific Series," was issued by you?

Mr. BOHN: It was.

Mr. BRADLAUGH: Did you publish a book called "Animal Physiology," by W. B. Carpenter?

Mr. BOHN: I did.

Mr. BRADLAUGH: Do you know that that book has been largely used as a text-book in schools?

Mr. BOHN: I do.

Mr. BRADLAUGH: How long were you a publisher?

Mr. BOHN: Always; for the last sixty years, and for forty-five years of that time entirely on my own account.

Mr. BRADLAUGH: Had you large experience in the sale of works on physiology?

Mr. BOHN: I had one of the largest connections in our trade. It was a subject I cultivated in my early days, and nearly all works on the subject passed through my hands. Some of them were my own property.

Mr. BRADLAUGH: Have you read the pamphlet which is the subject of the present indictment?

Mr. BOHN: I have.

Mr. BRADLAUGH: Does your experience, extending over forty-five years, in works on physiology, enable you to say whether the statements in that book are statements which you have found in many of the standard works on physiology which you have published?

Mr. BOHN: One important book which was familiar to me years ago—De la Motte Ligniac's "Physical Essay on Man and Woman in a State of Marriage," published with plates—entirely covered your book, and gave a great deal more. Another similar book was Venette's "Tableau de l'Amour Conjugal," of which there have been more than forty editions.

Mr. BRADLAUGH: And are you able, from your own knowledge of this pamphlet, to say that the facts in "Carpenter's Physiology" and other books, and in the "Fruits of Philosophy," allowing for the necessary compression of the latter, are identical?

Mr. BOHN: Substantially so.

Mr. BRADLAUGH: Having said there are a number of works on physiology which have been generally sold by you,

containing the same statements and facts as in the "Fruits of Philosophy," have you ever been prosecuted for obscenity?

Mr. BOHN: I am not aware that any of them have been molested.

Mr. BRADLAUGH: You communicated with me through your solicitor, so that you might give this evidence?

Mr. BOHN: I did. I felt very strongly on the subject, because many years ago one of my publications had been attacked by what I understood to be the action of the Society for the Suppression of Vice, a society from which I am glad to find Mr. Beresford Hope, the vice-president, has just withdrawn his support. I subsequently discovered that the attack on my book was made at the instigation of some Roman Catholic priests, but after a resolute remonstrance on my part I heard no more of the matter. In consequence of the interference of this society, the Society for the Suppression of Vice, which I presume to be at the bottom of the present prosecution, my successors, Messrs. Bell and Sons, have been induced to suppress the "Memoirs of the Comte de Grammont," a very amusing book, "Boccaccio's Decameron," the works of "Rabelais," and all the other books forming my so-called extra volumes.

Mrs. BESANT: I will only put one question to you, Mr. Bohn; have you ever put any restriction on the sale of medical works?

Mr. BOHN: None whatever; on the contrary, I should willingly have halved the price had I thought this would double the circulation.

This concluded the examination of the witnesses for the defence, none of whom were cross-examined on behalf of the prosecution.

Mr. BRADLAUGH: We had intended, my lord, to call some clergymen to speak as to over-crowding, but as that would only lengthen the case, and is not necessary, I think I will make this the whole of the evidence. The over-crowding is so clear that further evidence on the point would not strengthen my case one whit.

Mrs. BESANT: I had intended to call Mr. Smith, of the firm of Messrs. Smith and Sons, to prove the general and unrestricted sale of Chevasse and Bull, but that will, perhaps, not be necessary, as I believe the fact will not be disputed.

Mr. STRAIGHT: Certainly not.

Mr. BRADLAUGH: I think, my lord, as a matter of right,

myself and co-defendant are entitled to say one or two words, in summing-up, to the jury.

The LORD CHIEF JUSTICE: Certainly. Would you do that to-morrow?

Mr. BRADLAUGH: That would be better, my lord, as we could then make it much more brief. Both our summings-up would be included in the hour in which the Court opens.

Mrs. BESANT: I should not take more than half an hour to three-quarters.

Mr. STRAIGHT: The reply for the prosecution will be very short, my lord.

The LORD CHIEF JUSTICE: Then we shall finish to-morrow.

Mr. STRAIGHT: Certainly, my lord, without doubt.

The Court then rose, and Mrs. Besant and Mr. Bradlaugh were again loudly cheered as they left the hall.

FOURTH DAY.

THE Lord Chief Justice took his seat at 10.30 a.m., and the Clerk having handed to him an intimation, in writing, from the jury,

THE LORD CHIEF JUSTICE, after reading it, said : It is not consistent with our procedure to put a question to a person who is on trial ; it is not permitted by law.

Two jurymen stated that they were not aware of such a communication having been made.

THE LORD CHIEF JUSTICE : It is a very pertinent question to be put, but I cannot pass from the rules of procedure, which do not allow any question to be put to prisoners on their trial.

Mrs. BESANT : My lord and gentlemen of the jury, in summing up now the defence I have laid before you, I propose to do it very briefly, because, practically, one may say one has made the main part of one's defence, and I need do nothing more at the end of this long trial than remind you how much the case has become narrowed since its opening by the learned Solicitor-General. You will remember, gentlemen, without my going from point to point, or from argument to argument—I do not propose to press any of the points on you—you will remember that when the learned Solicitor-General opened the case he stated that we had to deal with a thoroughly obscene book, written with intent to deprave, using the cloak of philosophy to cover that intent, using the colouring of marriage in order to destroy marriage and to increase illicit intercourse, and that all this was done with such disgusting particularity of language as tended to deprave the minds of the young, making altogether a publication which he summarised as a whole by a word of one syllable which I will not repeat. The first point is as to the cloak of philosophy ; I think the defence has proved that the philosophy, at least, is real ; also that there is not one word which has been put into the philosophical part which is in any sense impure, and if you are to judge of the philosophy as being written with intent to deprave, it must be because there is some other portion of the book

which you read into the philosophy, making that which, in itself, is not there. As to the colouring of marriage, which is the next point raised by the learned Solicitor-General, I will put it to you that marriage is urged all through the book, and that profligacy is spoken against in the strongest terms the writer can use. Not only are profligacy and illicit intercourse spoken against, but the writer goes further, and warns the young of the great dangers resulting, not only from profligacy, but also from the intemperate use of the sexual functions. So that, I think, I may say, concerning the cloak of philosophy and the colourable use of marriage, that there is not one syllable in the book to warrant the argument of the Solicitor-General. You have, then, only to deal with the mere empty assertion of the learned counsel, unsupported by one shadow of evidence, which he has thought right to lay before you. As to the language having a disgusting particularity of detail, you will remember that it has been proved to be delicate and careful in comparison with ordinary medical literature; and I will put it that the extra delicacy of Knowlton is simply because Knowlton was writing a work for general circulation, and avoided, as much as possible, the use of terms which, on the general ear, would strike somewhat harshly. And I put it further, that Miss Vickery told us that the language of Dr. Knowlton, so far from being highly coloured, was, on the contrary, extremely mild and quiet compared with those books which her medical studies, during the last six years, had compelled her to peruse. You are aware, gentlemen, of the large number of medical books we have here, and you will remember an intimation from his lordship, yesterday, on the subject. My co-defendant, and myself, talked the matter over, and I felt strongly, that it being apparently put, that provided only the book were a medical book, no objection could be raised to the language in which the medical details were couched, it would be taking advantage of your patience, and of the consideration of your lordship, if we wearied you and ourselves—and it is even more wearying to those who speak than to those who have to listen—and so have unreasonably dragged on the trial for some five or six days, as would have been necessary had we gone through these books, and piled proof upon proof as to the delicate nature of the language used by Knowlton. I will only say, therefore, that we had begun with those most delicately worded; and if we had gone

through the whole of them some would have been found to be couched in language of so startling a character that I am only glad the course of justice has not compelled us to quote it in a court like this. The only reason why we felt it to be our duty to put these two books to you was that unless, gentlemen, you have some medical training, an idea of coarseness is inspired by the plainness of ordinary medical language, and that idea could only be destroyed by showing the language used in a standard medical work. We may take it that it is practically allowed that if Knowlton's is a medical work then the contention of the learned Solicitor-General as to a disgusting particularity of language falls to the ground, equally with his contention of the cloak of philosophy, or the colourable use of marriage. Thus the case is narrowed down to this: Is Knowlton a medical work? or is it, on the contrary, an utterly obscene book, written with intent to deprave? So far as its being a medical work is concerned, I think I may fairly urge that the defence has proved the accuracy of its details from the books read by my co-defendant. I may say also that there are medical notes right through the book referring to standard authors of eminence who teach the same facts. We find, in referring to Miss Vickery's evidence, that in answer to a question put by me whether with the means of judging derived from the experience she told us she possessed, she thought the pamphlet to have been written by one well acquainted with medical science at the time of its publication, she replied that she did so consider it; and when Dr. Drysdale was in the box—a man known equally in England, in America, and on the Continent as a physician of eminence and as an author of many scientific works—he said, in answer to a question put to him by Mr. Bradlaugh, that he considered the work a most excellent work, written by a scientific man, writing with a full knowledge of his subject, and writing with that care and accuracy characteristic of a scientific man. You will remember that you had the strongest testimony as to the thorough medical character of the work, and this is not surprising when you remember that Charles Knowlton held the diploma of Doctor of Medicine in Boston, and was the author of many scientific works; and I may point out to you that some of his hypotheses have lately been verified by experiment, showing him to have been a man of thought beyond the ordinary range of his time. We have the fact that 40 years ago he struck on some intricate physiological points,

on which his ideas have since been proved to be right, to put against the mere assertion of the learned counsel for the prosecution that the pamphlet is not a medical book, written by a medical man — a scientific treatise for a scientific purpose. To succeed, then, in the contention of the prosecution, the prosecution must show an intent to deprave, and the first thing that is done to show the intent is to urge that the book was not written in learned language. I avow, gentlemen, that I do not see that obscenity couched in a learned language becomes any less obscene, nor do I understand the contention that as Knowlton is an obscene pamphlet we should have improved Knowlton by translating him either into Latin or into Greek. So far from that, I cannot help remembering that the great Italian Giordano Bruno was burned to death because he spread scientific heresies among the Italian people in the Italian tongue; agreeing, as he did, with one of his contemporaries, that the dead languages were too often used as a cloak put over science, to cover its real emptiness, and wishing to teach the people, he insisted on speaking in his mother tongue to the people whom he desired to influence. The next thing that is urged to show the desire to deprave is the “unrestricted circulation of the book.” I and my co-defendant quite agree that society properly lays a restriction upon showing in shop-windows of streets where people pass, not only anatomical pictures, but also any pictures of a coarse or a disgusting description. I conceive that as you live in society you have no right to be a nuisance to your neighbours, or to annoy those who pass your shop-windows, by anything of a disgusting character: and the law has defined it to be an indictable misdemeanour to expose in a public place any disgusting object. I allow that to the fullest extent. There are plates in the medical books we have here which it would be most indecent to expose in the public thoroughfares, but so far as concerns anything short of that kind of forcing the thing upon the public notice, I must put it that every medical book is an unrestricted publication. The only restriction upon such books as that of Marion Sims is the restriction of price, and that restriction of price is not one that I think, with all submission, ought to be listened to in a court like this; it would be a most unfortunate thing if, from the highest court of justice in England, which knows no difference before the law between rich and poor, it should go

forth by verdict of the jury that an expensive medical book was a pure book, while a cheap medical book was an obscene publication, which puts its publishers in peril of their liberty. I must remind you of what Mr. Bohn said on this point, when he was dealing in the witness-box with his 60 years of a publisher's life, a life which I believe all will acknowledge to be one without blemish, and whose standard library is one of the credits of our modern English literature. Mr. Bohn distinctly stated that he had published books containing substantially the same as, and much more than, is contained in Knowlton's Pamphlet; that he thought he knew the book, published very many years ago, from which Knowlton, and Carpenter, and Kirke, had all equally been taken; that that book was out of print, but was now in the British Museum; that he had read a similar book before he was twenty-one years of age; and that during his whole publishing life of sixty years he had never known one case where a prosecution was brought against a physiological treatise on the ground that it was obscene. He told us he remembered about people being warned as to selling the tales of Rabelais, and the "Memoirs of the Comte de Grammont." But this has nothing to do with the selling a physiological treatise, and Mr. Bohn told us that if he had known any way of selling twice as many as he did he would have done so. As to the argument of restriction, I reminded you that we had these books here; I personally bought one of these medical treatises; I obtained another through the post; Mr. Parris bought some of them, and a young man of eighteen or nineteen years of age also bought some that might be characterised as strictly medical books; I only put that to you to show how much easier it is to talk of restriction than to practise it; nor is any effort made to keep them from the general public, else why are these books advertised in the columns of the daily papers, as well as where doctors would naturally look for them, in the *Lancet*, the medical journal? Then we are told, that though these details are necessary for doctors, they are not necessary for the public. I would urge upon you that poor women need to know the facts concerning menstruation and pregnancy quite as much as do the doctors, for they are often unable, from their poverty, to obtain the advice of medical men. It was acknowledged by the prosecution that no kind of accusation had been brought against Dr. Chavasse or Dr. Bull, and it would have been, indeed, rather awkward if a

principle had been laid down which would apply adversely in the case of books issued by one of the Government, of whom the learned Solicitor-General is the adviser. But if these details show an intent to deprave, I would ask you to carry your memories back, for one moment, to the terrible passage read by Mr. Bradlaugh, from Marion Sims, and ask whether it is not a much greater depravation to suggest putting a woman under chloroform for a certain purpose; whether that is not a suggestion whereby a wicked person might inflict a most cruel wrong on a helpless woman. Then we come to Carpenter, of whom the prosecution cannot pretend that it is written for medical men, for the instruction in Carpenter is not couched in the phraseology you generally find in books intended specially for medical students. That book, as well as Kirke's Handbook, are books circulated in schools for girls—the girls whose purity of mind the prosecution is so anxious to guard. In speaking of generally-circulated books, I drew your attention to a book, sold for a shilling by Longman & Co., in which the checks advocated by Knowlton for a good purpose are advocated for a bad purpose. The use of an injection is therein advocated for the purpose of keeping an unfortunate class of women in a state which will enable them to carry on their most unhappy trade. If you give a verdict against us, I cannot but think that it will be a most unfair verdict, for I cannot help remembering that it is not only in this country that such books are sold. We find the French Government authorising a book to be sold for one franc—and my lord, with his knowledge of France, will know that a book cannot be hawked by a colporteur without bearing the imprint of the Government—a book advocating such checks to prevent over-large families. I am the more encouraged to have faith in my case from the fact that one of the leading writers of the Paris press, Yves Guyot, one of the leading French writers on law, Professor Emile Acolas, as well as one of the champions of the people, General Garibaldi—all stand round us on our Defence Committee to show their feeling as to the struggle in which we are engaged. Gentlemen, not only is there no intent shown in the book to deprave, but, on the contrary, there is much to disprove that allegation of the Solicitor-General. I would repeat to you the answer which Dr. Drysdale made to the Lord Chief Justice, when the distinct question was put to him, as a medical man, "Is it your opinion that the book is calculated

to arouse prurient or immodest feelings?" To this the reply was, "No, my lord; certainly not." I put that opinion of a medical man against the allegation of the Solicitor-General, and I point also to the utter omittance by Knowlton of every unnecessary word of description; I remind you of his careful avoidance of any outside description, which might tend to arouse those feelings that might be aroused by the work of Dr. Carpenter. The prosecution is now driven to make its case rest on the advocacy of checks after marriage, which is the only point remaining to them. You have seen that Dr. Fleetwood Churchill advocates checks after marriage of a far more terrible character than any of those which Knowlton proposes. You will remember the proposition put by my co-defendant yesterday was that it is lawful to advocate checks after marriage, provided that those checks do not destroy life. I am quite content to rest my case upon that contention. There are but three checks after marriage—celibacy, the check advocated by Dr. Fleetwood Churchill after conception, and the check before conception advocated by Knowlton. The first—that of celibacy—is impossible, for you cannot teach people absolute celibacy after marriage, and unless celibacy is absolute it could be of no sort of use. To teach it would simply mean that men and women were to go through the ceremony of marriage as a mere empty mockery. This is a proposition which, if carried out, would be injurious to health even to the rich people, who would be able to live apart under the same roof. I ask you what it would be to the poor married couples, obliged to keep in the same room, on the same bed? I ask you if the poor man's life is to be one long and terrible temptation, lest he should commit the sin of bringing into the world children he cannot support? The check advocated by Churchill I look upon as almost a crime; from my point of view I cannot but think it wrong that, when a doctor has found that a woman cannot bring a living child into the world, he should counsel a check after conception, instead of before. This is a suggestion so horrible, so revolting, that most women would rather, by going the full time, run the risk of perishing in the birth-struggle than adopt such a check; I feel that to be a most immoral proposition; and if the learned Solicitor-General had turned his attention in that direction instead of in ours, he might have had some ground on which to base his prosecution. The only other check is a check which we advocate, a check

before conception ; I am only contending for the principle that Knowlton lays down, and for the right of doctors to discuss this question. You have heard of the efforts of the poor to find some sort of check to prevent the rapid increase of their families. Miss Vickery, in answer to a question I put to her, told you that poor married women seriously injure their health by over-lactation, imagining that it will stop conception. Dr. Drysdale carried this further, and said it was injurious both to the mother, to the child at the breast, and to the unborn child, and that the most terrible diseases resulted from those women resorting to this check in their ignorance. He told us that not only do women strive in that fashion to meet the terrible evil with which we are trying to grapple, but that, in his own practice, he found cases of both rich and poor, who used the most deleterious drugs, all this being done with the same hope of warding off pregnancy, and injury to health is thus caused, instead of the moral means advocated by Knowlton being used. You have heard of the checks adopted by the French against over-large families, and yet you know the affection the French entertain for their children ; parental and filial love is one of the distinguishing features of that nation. I ask you not to put on a great people the brand of immorality for practising that which is thoroughly moral, and I beg you that it should not be said that what is sanctioned throughout France, as a duty to society, is put down by the criminal law in England. Dr. Drysdale has told us of the evils of over-crowding ; he told us how he saw mother, father, six children, and another relative, all down with typhus fever, in one room, and he told us that disease is the direct result of large families ; you will remember how he said that too many women did not even know what modesty was because of the conditions of their youth. I ask you if we are to go to prison from this court because we try to make modesty something more than an unknown word ? We have only called three witnesses, because the facts are so indisputable ; but if we have injured our case by not calling more, it would, of course, be a great cause of regret to us ; but I imagined that to call more would only be a repetition of the same thing over and over again. I said, in my opening speech, that it was my intention to call the Rev. Mr. Horsley and the Rev. Mr. Headlam into the box but the case closed sooner than I had anticipated, and I had released Mr. Horsley from attendance yesterday, as

his duties required his presence at the House of Detention. I did not ask, however, this morning, to be allowed to call any further witness, our case being really proved beyond possibility of reasonable dispute. I ask you now, gentlemen, what proof has been given by the prosecution of our intent to deprave, of our hatred of marriage, or of our intention to promote illicit intercourse? The intention of the writer of this book and of its publishers is the same; and whatever is Knowlton's, that intention is also that of myself and my co-defendant. The intention of one is the intention of the others. If Dr. Knowlton uses the word "marriage" in a colourable sense, we have used it in the same. If the author disguises his evil intent under the word "marriage," we have used the same guilty weapon in publishing his pamphlet. Whatever the one intended in writing the work, we have intended the same thing in publishing it and in distributing it broadcast throughout the land. I leave that question of intention upon perfectly intelligible grounds. But what proof of an evil intention has been brought before you? You must give a clear and definite answer to the question before you can convict us under this indictment; and upon this point, perhaps, you will allow me to remind you of the verdict that was returned in the case of the *King v. Eaton*, where the jury unanimously decided against the book, but as it was not published with a criminal intention, no verdict of guilty was recorded. The case was carried to the Court of King's Bench, and there a verdict, meant to exclude evil intent, was returned, and no sentence followed. That was all the more strange because the judge summed up evidently against the prisoner, and there the publisher was not fortunate enough to be tried, as we are, before a fair and upright judge, one who administers the law with the equity and impartiality seen in this court. That case of the *King v. Eaton* fell to the ground, after a double trial, and I ask you whether we can be seriously held to be open to be convicted of obscenity if we have no evil intention to set ourselves deliberately to debase and corrupt the youth of this country? When you are considering the question of intention, it will be well for you to contrast the course which has been followed by the prosecution right through, with the course which has been adopted by myself and by my co-defendant—the utter dissimilarity between the tactics of the two parties—the concealment which characterised the prose-

cution, and the straightforwardness and openness of the defence. Remember, I pray you, that up to this moment, the name of the prosecutor in this case has remained concealed. We do not know who our prosecutor is; and so far as we have any statements at all on the subject, those of the learned Solicitor-General and the junior counsel are directly contradictory to the letter of their own solicitor. It may be a prosecution by the Government, by the police, by a magistrate, or by some individual who is actuated in the matter by some private spite or malice. We have no knowledge how it has arisen, whence it comes, and I ask you not to leave this out of your consideration when dealing with this case. And what is our position? Why, from the first we have been perfectly open and frank. We told the prosecution what we were going to do. Weeks ago we sent them notice of every book we were going to use, the titles of all the works upon which we relied. And that frankness has been carried out from beginning to end of this prosecution. Do you think that if we had had the criminal intention imputed to us we should have proceeded in that way? And yet we stand charged with a criminal offence before his lordship. Will you, I ask you gentlemen, give a verdict of guilty against me? You do not know very much of my life, it is true, and you may not be able to judge from it how far such a criminal charge is well or ill founded. You are not able to judge how thoroughly absurd—if it were not fraught with such danger—how utterly ludicrous this charge of intent to deprave and corrupt is when levelled against me. I was not, as my co-defendant said he was, born among the poor—I have not the glory, I have not the honour of having risen from among them by sheer brain power and persistent labour, to stand here in right of the position I have made, I have not so won that right of speech which I take to-day. No, that honour is not mine; but do you think I should have put myself in this position, do you think I should have placed myself in this danger, merely from an intent to deprave and corrupt humanity? You do not know much of me, it is true, but surely you can judge something of me by my speech, by my argument before you. Am I one whom you dare convict of intent to deprave and to corrupt? You may convict me, you may send me to prison, you may bid me herd with those depraved and dissolute women whose very language would be agony to me, worse agony than I can

put into words—unless, indeed, that, even in that prison, I might even there find means of prosecuting my work among my degraded fellow-prisoners, among the wretched women with whom I should be obliged to consort, as I have for long years carried it on in the cottages and homes of the poor. You cannot give a verdict of guilty against me, guilty of intent to deprave—my whole life gives the lie to it. Think a moment what such a verdict means. It means destruction of all I have worked for in the past, humiliation in all the labours of the future. You cannot convict me, and so take from me whatever influence for good I may have won. Yet, no, not the loss of my influence among the poor I have worked for. I cannot believe that, whatever your verdict may be, that there will be any loss of influence among them, for they will know how hard I have worked for them even in this court. You cannot convict me. Think for one moment upon all those who are watching this trial with the keenest anxiety. Can you let it go forth from this court, and from you, gentlemen, that there is to be no word of consolation or of comfort for the downtrodden, no change in the brutality and the misery of those overcrowded hovels which we seek to purify—that you tell of no star of hope for those who are writhing under poverty, and racked by pain—no word, no remedy for their misery, no breaking of the chains that bind them, no deliverance from the despair into which they are fast settling down? You cannot convict me if you think of the past and look forward to the future. Think of the juries in this great country who have over and over again stood between tyrannical Governments and the oppressed and helpless brought before the power of a court. Think what juries in this country have done. They have stayed the march of power against liberty, have widened freedom, and have protected discussion. Juries, too, have also sometimes done irreparable harm, have bound faster the chain upon the slave, and have been assistants of wrong for the sake of a momentary applause. Think, I pray you, of those juries who declared in favour of Horne, Tooke, and Thelwall. Make them your examples, and set us free to-day. A verdict of guilty? You cannot give it if you speak for justice and for truth, if you believe in innocence and in purity. We cannot yield, for we are working for the cause of the poor and the right to speak. But if, by some misdirection, some mismanagement of justice, you give a verdict against us to-day, you will

be doing what John Stuart Mill spoke of, you will be committing one of those crimes by which the men of one generation surprise and amaze posterity. A verdict of guilty? If you do this thing, remember that it will be to brand innocence with the infamy of guilt. If you do commit this wrong, then, from your verdict of guilty, we appeal to the verdict to a wider court, of a grander jury. We appeal from you to the people of the civilised world, from this bar to the bar of public opinion, and whatever your verdict may be, that greater jury will bring in a verdict of Not Guilty against us. We appeal from you to the verdict of the history which shall judge us when we have all passed away—that history which shall bring us in not guilty, whatever the verdict may be to-day. History, that weighing us in the far-off to-morrow, shall say that this man and this woman who stood on their trial here, who, knowing the misery of their time, the sufferings of their fellows, the agony of the people of their day, joined their hands and their lives together to bring salvation to the homes of the poor, did good service in their day and in their generation—that history shall say to us, "Well done," whatever your verdict may be.

The address was received with applause in court.

MR. BRADLAUGH said: Gentlemen, whatever may be your verdict, and I do not think you will give one which you do not think to be right, I and my co-defendant owe you thanks for the very great patience with which you have listened to what we have felt it to be our duty to urge; and as my co-defendant has done, I, too, will try to show those thanks by at least abridging as much as possible the few words I have now the right to address to you in summing up the arguments I have thought it necessary to submit to you. It is, I think, now fairly conceded that if it is lawful to advocate any checks upon over-population after marriage, we do not in this book say one word to advocate anything against the institution of marriage itself. There is no word here that is redundant, prurient, unjust, or unfair; and the real issue which you will have to decide, and in which you will have to give a verdict—and, after all, the ultimate decision in this case rests with you—is this: that men in England, in the nineteenth century, and the latter quarter of the century—that men in England, where scientific discussion is free and unfettered—free beyond what is allowed in any other country of the world—shall here stop, once and for all, at any rate so far as their verdict can stop it, the discus-

sion of the checks to over-population. I will not attempt to insult you by in any fashion going over again all that which in your kindness you permitted me to go over in the long address with which I am afraid I wearied you. I have now only one difficulty present upon my mind with regard to that address; and it is whether, where it was needful to go through those medical details, some of which I saw were so distinctly unpleasant to you—as I shall ask you to believe that they were to me, and have been during the last six or seven weeks that I have been obliged to study them—whether I in any fashion weakened the eloquent pleadings of my co-defendant, because in the school in which I have been trained—the rude school of experience in the world—in which I have studied and have been pushed about, I have learned that the want of tact is about as great a fault as any man can commit. Well, I felt that I was bound to show from some of those books that the book which was impeached in this court did not deal with the matter in hand either impertinently, with undue particularity, with immorality with prurience, or with redundancy; but that on the contrary, it proved in a just, a plain, a simple abridgment that which it intended, and gave to poor people the knowledge thought needful for them, written so that they might understand it, without one word to raise feelings that ought not to be raised. I will ask you to believe that in the oral evidence that we have called—and I do not think we have troubled you with more of that than was necessary—we have a repetition and corroboration of the same kind of evidence that I have drawn from the books. If you allow me, I just want to add one word to that which has fallen from my co-defendant regarding the justice and openness of our case. I gave to the prosecution, at very considerable trouble, the name of every book I was going to use, and in the two books I used yesterday, I gave the precise references to each page to be quoted and its bearing upon the corresponding page of Knowlton, where the same subject is dealt with. We did not, it is true, give every page and every reference throughout these books, because to annotate them was a work of great time and great labour, but we gave the references so far as we had gone, and a great many which we had not used at all. We called attention to every passage in the first books which we were going to use, in order that they might be able, accurately, to follow every line of our defence.

Was that the conduct of criminals? Was that the conduct of those actuated by intention to corrupt by the unfair use of the word marriage, or of those who would use the word merely to conceal their desires under the word to promote something worthy of punishment here? The books that I annotated are amongst the best of their kind, and you may judge from the rate at which I got through the two I used yesterday—though they were nothing like the thickness of several others—that my address, as originally intended, would have occupied some days. I felt the difficulty of doing as I intended even before the suggestion was given by his lordship. I felt the difficulty of keeping you, gentlemen, from your business advocations, taking up the time of the Court and of all connected with it, while I went over detail after detail; but, on the other hand, I also felt that it was necessary to do something, not, perhaps, so much for myself as to clear my co-defendant from the charge on which she was indicted before you. I also felt it necessary because of the words that were used by the learned counsel for the prosecution in opening this case, because if they had not been refuted they might have been taken as evidence, or, at any rate, as being incapable of refutation. However, I will say no more about that. Take now the oral evidence which we offered you. Remember that the witnesses did not come here predisposed in favour of a certain case or a certain theory. Miss Vickery, who, asked of one particular of which she was not certain, at once said so, and did not try to answer what she did not know. She did not come here to support persons guilty of possible crime, or of anything which in her view was a crime, but she came here to give testimony from the knowledge and experience which she has gained in her profession. She was not prepared to come here and support those whose views on this point, in her opinion, would have been a stigma upon her professional honour. She is a woman, and she read this book without seeing anything shocking, anything indecent, and you can judge of the value of her opinion by the character of her evidence, in which there was nothing audacious, either in the manner in which it is given or in the treatment of the subject. Dr. Drysdale from his wider experience, gained by his long association with hospital practice, was able to speak more fully and thoroughly of all this. Dr. Drysdale, I think, proved that within his own knowledge this book had circulated in London for twenty-five years, and during that

time had remained unchallenged by any prosecution until now. Again, upon this point, Mr. Bohn—a gentleman entirely unconnected with either of us, one of the most famous publishers of our times, one who has not only an English or a European, but a world-wide, reputation, from his well-known series of classical and standard works, a gentleman retired from his business and living in privacy, who could feel no necessity upon him of mixing himself up with this case, or with a book which has been characterised as this has—Mr. Bohn came forward and told you that he had been a publisher on his own account for forty-five years, and that altogether he had been connected with the publishing business for a period of nearly sixty years. He has, therefore, great experience in publishing books, and full knowledge of the character of those that are sold openly. Indeed, he has himself published a great many physiological works containing discussion of the very same matters, only that they were discussed with more particularity of detail, and were more full in some cases. His works have been issued freely for many years, and he told you that he knew this work had been in circulation for a long time. He also told you that a work so rare that it could only be found in the library of the British Museum was the foundation work upon which those of Knowlton, Carpenter, and Kirke were mainly, if not entirely, founded. I am not now alluding to Carpenter's "Animal Physiology," but to his "Human Physiology," which I referred to at some length yesterday, and which I told you was used as a handbook and a school-book. There was no necessity on Mr. Bohn to come forward and give evidence. Now, I want to make this further remark, that all this evidence was unimpeached and unimpeachable, and that none of the counsel on the other side attempted to cross-examine any of the witnesses. I do not say that with any ulterior intention, or put it unfairly to you against the prosecution, for I wish, on the contrary, to give them every credit for having left it open to us to call any evidence we chose, and not to shut out any answer that might come from these witnesses; and when I say that, I do not mean to make it a matter of reproach to the prosecution that they did not cross-examine; I hope I may say that the evidence of the witnesses we called may help you in coming to a decision upon your verdict. I want to remind you, also, because it may weigh against me—although in common with my co-defendant, I may say that I have not

taken up this case in any spirit of bravado or defiance—that you should not pay any attention to the publicity, or, perhaps, notoriety, of my name, for a man's name may become notorious justly as well as unjustly, and one must not always listen to what the public impression regarding a man is. I may, therefore, state generally that this question is to me no new question; that for many years I have advocated this subject in public; that I have issued a journal declared to be Malthusian in its policy for nearly twenty years, and, as I told you before, Lord Amberley referred to it and to me in a speech which he made at a science assembly in 1868, and thanked me for having pressed this question upon the attention of the working-classes, and the same estimate of my labours in this direction has been left on record by that eminent thinker John Stuart Mill. Gentlemen, I should have been disloyal to my views enunciated long ago, to my programme in connection with the population question issued some twenty years ago, and thoroughly believed in by me ever since, if I had not defended this action. And, gentlemen, I ask you, I ask you confidently—do not think me too bold or too presumptuous when I use the word confidence—for your verdict of not guilty. Let me remind you again what the proposition is for which I contend—the proposition I have already put to you in my address, and stated again yesterday. It is this: Is it lawful or not to advocate the application of checks to the evils of population, provided that such checks do not destroy the foetus after conception, nor the child after birth? If I needed to strengthen my case, which I don't think I do, I might show you by a reference to the extracts which have already been given to you from Churchill that he ventured to advocate abortion, and I think you will say it is far more moral to prevent, if possible, all conception, than to have recourse to such a check as that. My co-defendant has put that point before you very forcibly, and I refrained from characterising my sense of the inducement offered to procure abortion or to bring on premature labour, because, as I thought, my medical knowledge is not profound enough to enable me—for I doubt whether a man, unless he be trained and profoundly read in medicine, has a right to express a decided opinion on such a subject to enable me with confidence to dogmatize on the question. From our standpoint we believe that to touch human life in any way whatever, or in any fashion—whether overtly or otherwise—is the highest crime. When it comes to be a

question of saving the child or of losing the mother, and in that crisis a man who is responsible, a man who has been trained to the profession of medicine, and has had large experience in the practice of it, comes to a decision one way or the other, he has the right to act ; but on such a solemn question it is not necessary for me, nor for my defence, that I should urge one way or the other here. What I do say is that to touch human life wantonly is one of the highest crimes. I leave myself then in your hands, asking you, when the learned Solicitor-General comes to address you, to remember that it is to you I leave the refutation of any matters in his speech which I cannot then deal with, and which, if I had the right, I would not urge myself. There is another speech to which you have to listen, and to which I for one shall listen with very great attention ; there will be the address of his lordship, which will have the greatest weight with me, as doubtless it will deserve to be with you, and I will hear it, whether it be for or against me, with reverence and respect, believing that in either case it will be just, if it may be severe ; but I will ask you, gentlemen, to remember that, after all, the ultimate deliverance is in your hands, and unless in your heart of hearts you feel that we intended to deprave and corrupt public morality by the publication of this book, I ask you to say that we are not guilty of the charge preferred against us. And after you have delivered your verdict, I leave myself to the greater verdict of enlightened public opinion, the verdict which carries weightier and remoter issues than any verdict here can do ; and thus I leave myself in your hands.

THE SOLICITOR-GENERAL : I do not, gentlemen, wish to add to the inordinate length of this discussion by any serious prolongation of it by many words, and so my remarks to you will be very brief. The question you have to try is a very simple one, though the broad one may be very intricate indeed. Let me say one word—and it shall be but one—as to the matters so ably urged upon you by the defendants in this case, and which do not properly arise out of the issue before you at all. You have heard it avowed by both the defendants that they challenged this inquiry, and that they raised the question before you by giving notice to the police that at certain hours and in a certain place on a particular day they would sell this book to anybody that might present themselves as purchasers. There is a police man, who is here as the prosecutor, in the ordinary sense of

the term ; but it appears to me that whoever the prosecutor may be that is quite immaterial to the issue before you. Whether it is a policeman, or the authorities that are behind the policeman, it is quite certain that if the persons who challenged the prosecution had not been brought before you, the persons who have claimed the right to circulate this book to any persons who might present themselves and offer sixpence for it, they would have been entitled to say, and you will judge whether they would have availed themselves of that or not, that they were selling the book openly in the City of London, after having given notice to the authorities that they would do so. Then the authorities were placed in this dilemma : either they must institute proceedings against these persons—and a most unfortunate prosecution I admit it is, and, as I admitted to you at the first, and repeat to you now, a most mischievous prosecution in its character, and, probably, in its result—or they must have taken the other alternative, admit what they considered, and what they still consider, something more mischievous still—the admission by the proper authorities that this book might openly be published and circulated in the streets of London. That was the dilemma with which we had to deal, and the circumstances under which we felt bound to interfere. The prosecution is one which, I admitted to you at first, was likely to have the most serious effect ; and I think I may now put it to you that it has, since, as the defendants have told you, the attention to the book has raised its circulation from, comparatively, a trifling to the enormous amount of 125,000 copies. It appears to me a most disastrous thing that it should have been so ; but, from their point of view, it is not so, for they think the book should be circulated as widely as possible. But those who take the opposite view think that it is indeed indecent, and likely to deprave and corrupt the morals of the people. What were they to do ? Were they to allow it to be circulated in that way, or to attempt to suppress it, as in future I hope it will be suppressed, by the strong hand of the law ? That observation reminds me of another, and that is, that the circulation of this book is not an unimportant observation in relation to another question. It is unfair to suppose that if this had been a medical book, treating of the liver, or the brain, or the stomach, or any other organs but those which it did treat of, that it would have reached the circulation it had done. Why is it that

it has been circulated to that extent? Because, unfortunately, in a very great number of persons, particularly in the young, there is a prurient curiosity on subjects of this sort, books would reach a circulation of many thousands, while, if it had been a treatise on the other organs of the body it would, probably, not have been many hundreds. That is the sort of thing that this is. Let us go back to the question here. We must distinguish between the use of words (no persons are more able to use words in a more fallacious sense than the two defendants who have addressed you)—the motive and intention of the persons in circulating a book may be one thing, and the motive, intention, and effect of the book when circulated may be a totally different thing, and as I said to you originally, I did not care to inquire what the motives of the persons may have been. I would rather invite you—although some misrepresentations have been made on their behalf—I invite you to accept, for the purpose of this inquiry, the suggestion made that their conduct was actuated by the desire to benefit their species. Be it so. But there are some persons who take a reverse view of what is likely to be for the benefit of their species, and the question is, what this book will do when circulated? It is an entire misapprehension to suppose that a man's virtues, the desire of one's mind to benefit his fellow-creatures, will shield them from responsibility if the character of the book published is one which will corrupt and deprave the morals.

The LORD CHIEF JUSTICE: But here they are distinctly charged with intending to vitiate and corrupt morals.

The SOLICITOR-GENERAL: Yes, my lord, because everybody in a criminal court must be taken to apprehend the natural consequences of his acts, and if the natural consequences of the act is that it will deprave and corrupt the morals of persons among whom that person's book is circulated, he must be taken to intend that.

The LORD CHIEF JUSTICE: But you seem to me to acquit them of any such intent, while the indictment distinctly charges them with it. It is a strange state of things, although that may turn out to be a legal view of the case. It will certainly be a startling result if the person who is representing the prosecution in this case—the Solicitor-General of England—says that the defendants do not intend to corrupt the morals, and at the same time, notwithstanding, their indictment charges this, and they should be found guilty of having so intended and so done.

The SOLICITOR-GENERAL : I shall illustrate what I wish to show, my lord. Now, there is a sect in India, as all of us know, who advocate murder.

The LORD CHIEF JUSTICE : Then their intent is to murder.

The SOLICITOR-GENERAL : So I say that this book is in effect to corrupt the morals. I care not what the intention was in the mind of the man not connected with the book itself. I shall put for your consideration that this sect of whom I speak hold it to be a holy sacrifice to their Deity whom they wish to worship, to sacrifice human life, and if they, in that sense, meaning to do right, should circulate a book which suggested the enforcement and necessity of the Thug practice, who could doubt that that was an indictable offence, and a misdemeanour in this country? I shall here (not that I admit the motives of these persons put forward as guiding them), but I say I rather invite you to accept that without inquiry for the purpose of the argument. Their notion is that the population ought to be limited, that it would be a desirable thing that conception should be prevented. I say that that is contrary both to the law of God and the law of man, and if they choose to circulate a document of that sort, which is intended to produce that result, and intended to produce that result in that way, I say that it is immoral, and under the circumstances of the case, an obscene book, and one which ought to be condemned by any jury before whom this question might come. I rather would protest against arguing, as some of the defendants have endeavoured to argue it, as if it had been necessary to go into some abstruse and recondite questions of political economy. I say that this is a dirty, filthy book, and the test of it is that no human being would allow that book to lie on his table ; no decently educated English husband would allow even his wife to have it, and yet it is to be told to me, forsooth, that anybody may have this book in the City of London or elsewhere, who can pay sixpence for it ! It does not require any abstruse or recondite arguments. The object of it is to enable persons to have sexual intercourse, and not to have that which in the order of Providence is the natural result of that sexual intercourse. That is the only purpose of the book, and all the instruction in the other parts of the book leads up to that proposition. Is not that so? Is not that calculated to deprave and destroy the morals of the persons

among whom it may be circulated? Look at the object of the proposition and the contents, that a man and woman may ["marry and yet limit their family," is a paraphrase of what was said here]. First of all, is that, or is it not, calculated to deprave the public morals? The recommendation, indeed, is that it may be done under the sanction of marriage. Do you limit your sanction, as the original book appears to have intended, as the private companion for young married couples? Now, gentlemen, I should also submit to you that it is an obscene book. Are we to argue it on that point? There is an unreality in the argument. If any boy and girl, of sixteen or seventeen, may go to Stonecutter Street, and buy it for sixpence, and when it is in their hands you are to suppose that the suggestion that this is to be done after marriage, will have a powerful effect upon the young inflamed passions of these young persons, and what they will consider themselves only to be done under the restraint of marriage. A young man and woman have this book put into their hands. They are unmarried; there are means in the shop of every chemist which can be obtained for one shilling, whereby ["they may give way to their passions without fear of results:" we again paraphrase for our readers' sakes]. I submit to you, that this is a matter to be dealt with, not on abstruse considerations, but with a little manly common sense. Let every man of common sense ask himself what is the inevitable result of disseminating such things among the common people? They are to study this, forsooth, to study these physiological details, which might do when we reverted to our original state of innocence, and entirely get rid of the ordinary state of decency which keeps certain subjects from common observation and conversation. But the common sense of mankind recognises the fact that we are not perfectly pure nor perfectly innocent. "Avoid temptation" is the Christian exhortation; is this, or is it not, temptation to circulate a pamphlet of this sort amongst the young? Ask yourselves what the inevitable result would be, and when we look at the third chapter, up to which all the rest of it leads [the learned Solicitor-General is here too coarse for "the common people" to read, and it is too much trouble to veil him in Latin, and impossible to paraphrase him]. What underlies all this means that you must have free discussion in everything, and that there must be an absolute free discussion to everybody. That seems

to be the suggestion made more than once by both the defendants. But that is a question, of course, which the tribunal which has to decide this question—the tribunal of the average English mind is the best that can be obtained. That is the question you have to determine. Is it, or is it not an obscene publication? It is suggested, Why you may collect from various books, from various medical works, equivalent passages to this? Be it so. What then? You may collect from Johnson's Dictionary the foulest and most obscene language in the world, by putting the words together. What is the difference? Who do you suppose would go and pay the two or three guineas for a medical work with plates for the express purpose of looking at the one plate which might represent the reproductive organs, and which treated of the diseases to which they are subject, and of the mode in which they are treated just to satisfy a prurient curiosity? Is that an equivalent publication to the one we have here? We will put that a medical book and the circulation of it under certain circumstances might be a most improper thing. The book itself might, being circulated in that particular way, be a most improper thing to do, and properly form the subject of an indictment. But we are not dealing with that question here. We are dealing with a book which does not profess to treat of diseases; what it professes to treat is the destruction of the conceptive power after the sexual act has taken place, and that is the thesis which is put forward before you. Gentlemen, of course it is for you to say whether this is a book which can properly be circulated in the way this book has claimed to be circulated; and let there be no mistake about it. This is the question which I invite you to consider. This is not a question of whether this matter might or might not be discussed with certain restrictions, and under certain circumstances. The claim is here put to you to affirm that that claim ought to be conceded to circulate this book in this manner. It is not necessary for me to do anything more than to ask you to read the book; and let me in one word—and I decline to go into their long discussions about the questions which might or might not arise—I ask you to treat it very shortly and very plainly. Is this book a book when circulated in this manner—is it calculated by the tendency of the work itself (never mind the motives of the persons who circulated it)—is the tendency of the book, which they admit they circulated, and which,

if they succeed in gaining your verdict, they will say that you have justified them in circulating—is that a book, or is it not a book, calculated to degrade and destroy public morals? If it is, then there are no circumstances which justify them in its publication. There are no circumstances which justify them by a supposed relief to human suffering, or anything of that sort; there is no such justification as may seem proper, though, probably, it is a medical work aimed at the cure or the prevention of disease. That which the work was supposed to do is, as I venture to submit to you, to recommend to the people a mode which is both contrary to the law, which is immoral, which is wicked in itself, and that by describing with minute particularity the organs comprised in the reproductive system; and, having described these details, proceeds with a degree of detail which I described before as filthy—and I do not retract my words—to describe the sexual act, and what follows thereon, with a degree of filthy detail, and all that because, they say, we are entitled to recommend to you the practice of checking conception and preventing life, and assume for themselves that, while they agree that if conception proceeds to a certain extent (I know not to what particular extent), it is wrong, they assume to themselves to discover at what moment the process of fecundity begins, and yet, after a certain time, it is not lawful, while before that time it is. I deny both principles. I say it is of itself immoral and wicked, and having submitted that to you, you will judge for yourselves whether it is true. If that is true, of course a minute description by which that principal object is to be effected does not become more lawful or more proper, or less obscene or less likely to deprave the public morals; because a minute particularity is given, not as a medical work, or that it is a work of science, but because it is a matter able to be discussed in public as a matter of national welfare, and, therefore, every boy and girl in the City of London may buy the book for 6d. I said before you were the guardians of the public morals, and the defendants seem to have fully adopted that, and recommended it to you. The case is, therefore, fairly before you. You are to say, on looking at this work, whether it is not an obscene work, and whether it may to-morrow—after your verdict is given, if in favour of it—be sold to anybody who applies for it, and the only reason I refer to the price is because it is that which enables anybody to circulate it, and

get it to be bought with the greatest facility. Everybody can, therefore, at that cost, go to Stonecutter Street to-morrow, after your verdict is returned, if your verdict should be in favour of the defendants, and buy this book, and scatter it broadcast over the country. I cannot believe that any English jury, having any reverence for the marriage state, for the chastity and purity of their own wives and daughters, can do any such thing, and, therefore, I do not think it necessary to do any more than invite your attention to what I have laid before you.

The LORD CHIEF JUSTICE, in summing up, said : Gentlemen of the jury : There is one point on which I think every one who has attended to this trial will cordially concur with the Solicitor-General, who has just addressed you—that is as to the mischievous character and effect of this prosecution. A more ill-advised and more injudicious proceeding in the way of a prosecution was probably never brought into a court of justice. Here is a book which has been published now for more than forty years, which appears never to have got into general circulation to any practical extent, and which by this injudicious proceeding has been resuscitated and sent into general circulation to the extent of thousands of copies. And when the learned Solicitor-General says that in consequence of the challenge sent forth by the defendants to the police authorities after the work had been given up at Bristol, that they were prepared to publish it and sell it with a view to challenge the question whether it was a work which might really be circulated, when the Solicitor-General says that left no alternative to the authorities but to meet that challenge, I must say that I do not agree with him ; and when he talks of the authorities I should like to know who are the authorities and what are the authorities to whom he refers. He did not venture to tell us that anybody except the policeman who was put into the box on the part of the prosecution is, in fact, the prosecutor in this case. I should very much like to know who are the authorities who are prosecuting, because that has not yet transpired. The Solicitor-General tells us it may have been the magistracy. I do not believe it. I do not believe it. I, however, entirely concur with him that, however ill-advised may have been this prosecution, here it is. Every man has a right, even if he is only a detective policeman, to put the criminal law of the land into motion, if he thinks he has ground for so doing, so long as the Government of this

country thinks proper to have the administration of justice defective in that which, from this place I say, is an essential necessity with a view to its proper administration (I mean the office of a public prosecutor)—so long as every individual, however rash, however ill-advised, has the right to put the criminal law of the land in motion, if he does so he has the right to ask that the case shall be treated with due consideration, and shall be disposed of according to justice and to law. Therefore, we have the case here, and however much we may deplore the rashness which set this prosecution going, we must deal with it as though it had had the sanction of the Crown, which I do not think it has, although the Solicitor-General appears to conduct it. It is not a Government prosecution, nor have we any evidence that it is a prosecution set on foot by any authority which we should be disposed to treat with any great amount of consideration, but it is a case certainly deserving of your most serious attention. There is one thing in which I cordially agree with the Solicitor-General, and that is that no better tribunal can be found in the world to judge of such a question as this than the average sound sense and enlightened judgment which is to be found in English society, and I quite agree with what has been said on both sides that the decision in this case, when I have told you what the indictment is, and what the law is, rests solely and entirely and exclusively with you. If you are of opinion that this book in its details, or in its scope, or in its effects, deserves the character that the Solicitor-General says has set its stamp upon it, your verdict ought to be undoubtedly given for the prosecution. But before you arrive at that conclusion, you must carefully consider this work, both in its detail and in its general effect. The indictment charges the defendants that they “unlawfully and wickedly devising, contriving, and intending, as much as in them lay, to vitiate and corrupt the morals as well of youth as of divers other liege subjects of our said lady the Queen, and to incite and encourage the said liege subjects to indecent, obscene, unnatural, and immoral practices, and bring them to a state of wickedness, lewdness, and debauchery, therefore, to wit, on the 24th day of March, A.D. 1877, in the City of London and within the jurisdiction of the Central Criminal Court, unlawfully, wickedly, knowingly, wilfully, and designedly did print, publish, sell, and utter a certain indecent, lewd, filthy, and obscene libel, to wit, a

certain indecent, lewd, filthy, bawdy, and obscene book, called 'Fruits of Philosophy,' thereby contaminating, vitiating, and corrupting the morals." That is the charge, and here, again, I agree with the Solicitor-General that if the effect of the work is as the words here designate it, and the defendants did, as they openly avow, intentionally publish the work, and that be its character, they must abide by the result, however strange and anomalous that may seem; while it is admitted that they were acting under the belief that they were doing good in what they did, nevertheless they are to be held responsible to the extent of its being found against them that they published this work, which tends to deprave the morals of society. Now, gentlemen, as I have already said, you are the judges in this matter, and you have had this book before you, and you have had it in all its details and in its general effects commented on by both sides, and by this time you must be pretty familiar with it. I am bound to tell you what the law says about it. Although it is a law of modern times, and unknown, I believe, to the old common law of England, and forming a portion of that part of our law which is called "judge-made law," there it is—it is the law of the land, and we must all abide by it. It is not for the defendants to say that the law is a bad law, and inconsistent with that perfect freedom of discussion which is essential to the welfare of mankind. We are a law-abiding people, and no man has a right to set himself above the law and to defy the law. If the law is a bad law, an immoral law, or an impolitic law, and you have it in your power in any way to change it, to abrogate or reverse it, your duty, as a good citizen, would be to do so. But while the law exists it is your first and bounden duty as citizens to obey it; therefore, we must not listen to arguments upon moral obligations arising out of any motive or out of any desire to benefit humanity, or to do good to your species. You must not say, I will set the law at defiance, or, I will do what the law forbids. No matter what the motives of the defendants may have been, if the work is what the Solicitor-General for the prosecution alleges it, although we may think we see—and probably we shall be right in saying so—here, in this instance, are two enthusiasts, who have been actuated by the desire to do good in a particular department of society, nevertheless, if in this desire to do good they have done wrong, they must abide by the result.

Now, gentlemen, the law is this—that whatever outrages public decency and actually tends to corrupt the public morals is an offence. It is not necessary to load it with all the opprobrious epithets which have been applied to this work. It is enough to say that the work is a corrupt publication, that it tends to corrupt the morals of the population, and that it is, therefore, an offence against morality. But we must be careful in applying this general principle of law when we come to its practical application, so as not to abridge the full and free right of public discussion, and the expression of public and private opinion on matters which are interesting to all, and materially affect the welfare of society. There is a difficulty in a case of this kind in determining whether that which is put forward in the shape of a publication is matter tending to vitiate and corrupt public morals, or whether it is matter which it is of interest to mankind to have discussed, and which calls for an expression of opinion upon it. Now, the Solicitor-General, in opening this case—as he did also in replying to the case for the defence—has asserted not only that this publication is filthy and obscene, but also that the purpose of it—and all the details are intended to lead up to that purpose—is inconsistent with public morality, so that we have to divide the consideration of the subject into two parts. In the first place, are there in this publication details inconsistent with decency—details calculated to enkindle the passions and desires of lust, and excite libidinous thoughts in the minds of the readers? Even if that should not be the case, the second point is whether the purpose advocated in the work, and the purpose and effect of the details so elaborately given, is a purpose inconsistent with the morals of society? If so, the work is an illegal work, and the offence with which the defendants are charged is made out. If, on the other hand, that is not established, the defendants are entitled to a verdict of acquittal. It must not be forgotten that it is for the prosecution to prove its case, and it lies on them to make out that the defendants are guilty. Now, gentlemen, let us see what the work purports to be, and let us inquire whether it is published in the way of information or whether it is at all calculated to corrupt the mind of any one. I divide that into two parts. Is this publication in its scope and object a thing calculated to deprave and debase the morals of those who read it? That

is one part. Independently of that, are the details given, irrespective of the ultimate purpose of the work, calculated to inflame the passions and corrupt the morals of those readers? These are two separate and distinct things. Before I call your attention any further to the details, let me allude for a few moments to what, as it appears to me, is the scope and purpose of the work. The author, Dr. Knowlton, professes to deal with the subject of population. Now, a century ago a great and important question of political economy was brought to the attention of the scientific and thinking world by a man whose name everybody is acquainted with, namely, Malthus. He started for the first time a theory which astonished the world, though it is now accepted as an irrefragable truth, and has since been adopted by economists after economists. It is, that population has a strong and marked tendency to increase faster than the means of subsistence afforded by the earth, or that the skill and industry of man can produce for the support of life. The consequence is that the population of a country necessarily includes a vast number of persons upon whom poverty presses with a heavy and sad hand. It is true that the effects of over-population are checked to a certain extent by those powerful agencies which have been at work since the beginning of the world. Great pestilences, famines, and wars, have constantly swept away thousands from the face of the earth, who otherwise must have contributed to swell the numbers of mankind. The effect, however, of this tendency to increase faster than the means of subsistence, leads to still more serious evils amongst the poorer classes of society. It necessarily lowers the price of labour by reason of the supply exceeding the demand. It increases the dearth of provisions by making the demand greater than the supply, and produces direful consequences to a large class of persons who labour under the evils, physical and moral, of poverty. You find it, as described by a witness called yesterday, in the over-crowding of our cities and country villages, and the necessarily demoralising effects resulting from that over-crowding. You have heard of the way in which women—I mean child-bearing women—are destroyed by being obliged to submit to the necessities of their position before they are fully restored from the effects of child-birth, and the effects thus produced upon the children by disease and early death. That these are evils—evils which, if they could be prevented, it would be the first business of human charity

to prevent—there cannot be any doubt. That the evils of over-population are real, and not imaginary, no one acquainted with the state of society in the present day can possibly deny. Malthus suggested, years ago, and his suggestion has been supported by economists since his time, that the only possible way of keeping down population was by retarding marriage to as late a period as possible, the argument being that the fewer the marriages the fewer would be the people. But another class of theorists say that that remedy is bad, and possibly worse than the disease, because, although you might delay marriage, you cannot restrain those instincts which are implanted in human nature, and people will have the gratification and satisfaction of passions powerfully implanted, if not in one way, in some other way. So you have the evils of prostitution substituted for the evils of over-population. Now, what says Dr. Knowlton? There being this choice of evils—there being this unquestioned evil of over-population which exists in a great part of the civilised world—is the remedy proposed by Malthus so doubtful that probably it would lead to greater evils than the one which it is intended to remedy? Dr. Knowlton suggests—and here we come to the critical point of this inquiry—he suggests that, instead of marriage being postponed, it shall be hastened. He suggests that marriage shall take place in the hey-day of life, when the passions are at their highest, and that the evils of over-population shall be remedied by persons, after they have married, having recourse to artificial means to prevent the procreation of a numerous offspring, and the consequent evils, especially to the poorer classes, which the production of a too numerous offspring is certain to bring about. Now, gentlemen, that is the scope of the book. With a view to make those to whom these remedies are suggested understand, appreciate, and be capable of applying them, he enters into details as to the physiological circumstances connected with the procreation of the species. The Solicitor-General says—and that was the first proposition with which he started—that the whole of this is a delusion and a sham. When Knowlton says that he wishes that marriage should take place as early as possible—marriage being the most sacred and holy of all human relations—he means nothing of the kind, but means and suggests, in the sacred name of marriage, illicit intercourse between the sexes, or a kind of prostitution. Now, gentlemen, whatever may be

your opinion about the propositions contained in this work, when you come to weigh carefully the views of this undoubted physician and would-be philosopher, I think you will agree with me that to say that he meant to depreciate marriage for the sake of prostitution, and that all he says about marriage is only a disguise, and intended to impress upon the mind sentiments of an entirely different character for the gratification of passion, otherwise than by marriage, is a most unjust accusation. (Applause in court.) I must say, that I believe that every word he says about marriage being a desirable institution, and every word he says with reference to the enjoyments and happiness it engenders, is said as honestly and truly as anything probably ever uttered by any man. I can only believe that when the Solicitor-General made that statement he had not half studied the book. But I pass that by. I come to the plain issue before you. Knowlton goes into physiological details connected with the functions of the generation and procreation of children. The principles of this pamphlet, with its details, are to be found in greater abundance and distinctness in numerous works to which your attention has been directed, and, having these details before you, you must judge for yourselves whether there is anything in them which is calculated to excite the passions of man and debase the public morals. If so, every medical work is open to the same imputation. We know there are books which have, for their purpose, the exciting of libidinous thoughts, and are intended to give to persons who take pleasure in that sort of thing the impure gratification which the contemplation of such thoughts is calculated to give. If you think this book is of that character, and is therefore calculated to produce in the mind of any man thoughts of this description, then the work would be condemnable upon that point. Though the intention is not unduly to convey this knowledge, and gratify prurient and libidinous thoughts, still if its effect is to excite and create thoughts of so demoralising a character to the mind of the reader, the work is open to the condemnation asked for at your hands. I quite agree that a work of this kind sold at the corners of the streets—or capable of being sold at the corners of the streets and at bookstalls to everyone who has sixpence to spare—may be purchased by persons who think there is something in it that will gratify their prurient desires. But it may be contended—and it is per-

fectly true—that details of this kind are absolutely necessary in a medical or physiological work treating of the human organs, and which professes to give useful information to every person able to pay even sixpence. At the same time, you must consider whether the details given are calculated to do more than give you that fair information which every human being may be assumed to fairly desire to possess—a knowledge of his own organisation. But if you think that it has a tendency to excite unholy desires; if you think it deserves the character which the Solicitor-General has given to it, and that it outrages decency and tends to corrupt public morals, you are bound by your verdict to condemn the work. Now, let us suppose that you should be of opinion that there is nothing inconsistent with physiological details that may properly be given. I will not trouble you by reading extracts, because you have the book before you. Suppose you are of opinion that there is nothing in those details which should not be given. But here allow me to make one remark. We are not dealing with this work as a matter of taste or feeling. We may think it would be better that such details were not given, and so become liable to be placed in the hands of boys and girls. That is quite another matter. You must be satisfied that these details, even if not intended for that purpose, have the effect of corrupting the mind before you condemn the book. That is the charge or proposition which must be made out in order to bring the book within the reach of the law. Suppose now you are satisfied that the Solicitor-General was wrong when he said that, while Knowlton advocates marriage he advocates something else. Suppose you set aside that as groundless, and believe that the physiological details as to conception and procreation have not in themselves any corrupting tendency, you then cannot find the defendants guilty upon that ground. Now, we come to what, as it appears to me, is the very essence of this inquiry. We come to that part of the case on which your verdict must hinge. The argument with respect to marriage being hastened, instead of, according to the Malthusian theory, being delayed, having been disposed of by the author, we come to the point as to how the existence of over-population is to be dealt with, and the misery, disease, and immorality which it necessarily engenders in those classes upon whom over-population presses, and to whom it brings the most serious and fatal of diseases and con-

sequences. How are those consequences to be averted according to this book? It is by means to be taken, not to prevent intercourse between married people, but to present the consequences of that intercourse which naturally before place between the sexes in the married state, and therefore means are suggested which, having read the book, you are familiar with. The learned counsel for the prosecution, says, in emphatic terms, that these means are contrary to the law of God and the law of man; in other words, to prevent the natural fruits of matrimonial union is contrary to the law of God and man, and contrary to the sound morals which ought to prevail. The question is whether that is the view which you will take of the proposition contained in this book. Over-population, says Knowlton, is productive of abundant misery. How can we prevent the over-procreation of the species? If you check marriage, prostitution takes its place; and, therefore, the only possible way in which you can grapple with it is to allow legitimate intercourse between man and woman after marriage, but to prevent procreation by applying artificial checks after conjugal and connubial intercourse. Says the Solicitor-General, that is obscene, no matter in what form that is presented. There are three or four forms in which the preventive checks are proposed. One is specially recommended as efficacious, but it is open to the same objection as the others—that, it is said, it tends to destroy the morality of conjugal life. Now, there is one of these means which occurs to me in the first instance. Knowlton points out as a physiological fact established by long experience and consistent with the present scientific theory on the subject of procreation, that if conjugal intercourse is avoided at a particular period, and within a certain time of menstruation, conception cannot take place, in fact it becomes physically, or all but physically, impossible. Now, suppose a married man and woman, with limited means, and having as many children as they can maintain, were to come to the resolution to avoid conjugal intercourse at the particular period at which that conjugal intercourse mainly produces its natural result, would that be an immoral course of proceeding? If it would be an immoral course of proceeding, the man who recommends an immoral course of proceeding in an open publication is guilty of an offence against the law. Another artificial check suggested

[Knowlton, p. 39]. These are very unpleasant details in a public court, but we must deal with them. Is that inconsistent with morality? There may be a certain degree of indelicacy in such a suggestion, but the question for your decision—and for your decision only—is whether it could have the effect of corrupting the morals of those persons who resort to the practice. A man and woman may say, “We have more children than we can supply with the common necessities of life; what are we to do? Let us have recourse to this contrivance.” Then, gentlemen, you should consider whether that particular course of proceeding is inconsistent with morality, whether it would have a tendency to degrade and deprave the man or woman. The Solicitor-General, while doubtless admitting the evils and mischiefs of excessive population, argues that the checks proposed are demoralizing in their effects, and that it is better to bear the ills we have than have recourse to remedies having such demoralizing results. These are questions for you, twelve thinking men, probably husbands and fathers of families, to consider and determine. That the defendants honestly believe that the evils that this work would remedy, arising from over-population and poverty, are so great that these checks may be resorted to as a remedy for the evils, and as bettering the condition of humanity, although there might be things to be avoided, if it were possible to avoid them, and yet remedy the evils which they are to prevent—that such is the honest opinion of the defendants, we, who have read the book, and who have heard what they have said, must do them the justice of believing. I agree with the Solicitor-General if, with a view to what is admitted to be a great good, they propose something to the world, and circulate it especially among the poorer classes, if they propose something inconsistent with public morals, and tending to destroy the domestic purity of women, that it is not because they do not see the evils of the latter, the while they see the evils of the former, that they must escape; if so, they must abide the consequences of their actions, whatever may have been their motive. They say we are entitled to submit to the consideration of the thinking portion of mankind the remedies which we propose for these evils. We have come forward to challenge the inquiry whether this is a book which we are entitled to publish. They do it fairly, I must say, and in a very straightforward manner they come to demand the

judgment of the proper tribunal. You must decide that with a due regard and reference to the law, and with an honest and determined desire to maintain the morals of mankind. But, on the other hand, you must carefully consider what is due to public discussion, and with an anxious desire not, from any prejudiced view of this subject, to stifle what may be a subject of legitimate inquiry. But there is another view of this subject, that Knowlton intended to reconcile with marriage the prevention of over-population. Upon the perusal of this work, I cannot bring myself to doubt that he honestly believed that the remedies he proposed were less evils than even celibacy or over-population on the one hand, or the prevention of marriage on the other hand, in that honesty of intention I entirely concur. But whether in his desire to reconcile marriage with a check on over-population, he did not overlook one very important consideration connected with that part of society which should abuse it, is another and a very serious consideration. What the Solicitor-General has here put before you is, I think, very well deserving of your consideration. The Solicitor-General assumes, for the purposes of argument, that Knowlton is sincere in assuming that he desires to see marriage keeping its proper place in the institutions of mankind, that he desires, by early marriages, to prevent prostitution and the evils of celibacy, and that, even as regards married people, that which he recommends might be held to be consistent with a proper state of morals; yet some things that he recommends in marriage may also be made available by those who are not married, and every young man and young woman who may have a tendency to gratify their sexual instincts and desires without entering into matrimony have here a means suggested to them whereby they may gratify their instincts and desires without running the risk of having children. Say the defendants, in answer to that very obvious argument: "We have nothing to do with any abuse of what we recommend; we recommend it only to those who are married, with whom sexual intercourse is a perfectly rightful thing. We don't recommend it to those in whose case sexual intercourse is not a rightful thing, and if they choose to do that which is wrong and, in order to cover their wrongdoings and prevent evil result, they choose to have recourse to knowledge which is not intended for them we are not to blame, and we ought not to be prevented from recommend-

ing to the married that which could be useful to them because other persons abuse that which we recommend." Well, that is true to a certain extent, but, on the other hand, if that which is offered to the married, though in their case—and I say this only hypothetically—it might not be productive of immoral effects, yet if you extend it over the whole of society it may subvert the morals of a portion of society, and it becomes the question whether the thing proposed is not a thing which from its nature will corrupt the morals of the young. Therefore, it is open to the objection that brings it within the law. It is very true, it may be said in answer—an answer not altogether unworthy of consideration—that the reason why the law makes the publication of works of an improper description illegal is that their tendency is to corrupt the public morals; but in the case you suppose the persons are already corrupt, and are prepared to give way to passion and set aside the laws of virtue; therefore, their minds are already corrupt, and will not be corrupted by the remedies we recommend; they are already willing to go wrong, but for the dangers which they foresee from sexual intercourse. Well, that is very true. That argument may be presented in answer to the one founded upon the possible publication of this work to unmarried persons. It is very true that that answer may be given, but there is a reply to it. If the instincts of unmarried persons are restrained simply by the fear of the consequences of illicit intercourse, namely, the begetting of children, by suggesting these preventive checks you remove a salutary restraint. Therefore, it may be argued, not without foundation, that if the use of these preventive checks were consistent with morality among the married, you are offering to the unmarried a strong temptation by means of the removal of those restraints which keep many in the right course. These are the various forms in which this question may be put. I can only tell you what the general course of the law is. I can only repeat that if you are of opinion that this work of Knowlton's, although well intended, and although the publication of it by the defendants may be intended for the benefit of mankind, if you think they have taken an erroneous view as to the effect of the work, and that its entire scope is subversive of the morals of society, if that is your opinion, it is then your bounden duty to find the defendants liable. But whilst that is the case, it is for the prosecution to make out the charge they have undertaken to establish. If you think they have

failed—if you think these are matters which may fairly be discussed—that the proper answer to them is by refuting them by argument and not by prosecution, the defendants are entitled to your verdict. Or if you have any doubt as to the effect of this work you are bound to bring them in not guilty. I would only say in conclusion, that whatever outrages decency, whatever tends to corrupt the morals of society, and especially the morals and purity of women—whatever tends to have that result is, when published, an offence against the law. But that offence like every other must be made out. If you think it is made out, if there is a conviction in your minds that though they have acted from a desire to do good, yet in your opinion they have done wrong, they have then brought themselves within the definition of the statute.

The jury at a quarter to one asked for leave to retire to consider their verdict.

His Lordship directed that they should do so.

They returned into court at twenty minutes past two, having been absent an hour and thirty-five minutes.

The LORD CHIEF JUSTICE, to the clerk of the court : You had better call over the names.

The CLERK : My Lord, there are twelve gentlemen in the box.

The LORD CHIEF JUSTICE : Very well.

The CLERK : Gentlemen, have you agreed upon your verdict?

The FOREMAN of the jury : We have.

The CLERK : Do you find the defendants guilty or not guilty of this charge?

The FOREMAN : We are unanimously of opinion that the book in question is calculated to deprave public morals, but at the same time we entirely exonerate the defendants from any corrupt motives in publishing it.

The LORD CHIEF JUSTICE : I am afraid, gentlemen I must direct you, on that finding, to return a verdict of guilty under this indictment against the defendants. As I have already explained to you the motive and intention of the defendants cannot, in this case, be taken into account at all. If you find that the book is calculated to corrupt and deprave public morals, you must, although you did not think they had a motive to corrupt public morality, yet as their intention to publish was deliberate, you must find that as it is calculated to do so they had a corrupt motive in publishing it. Of

course your exoneration of them will be taken into account at the proper time, but I am afraid you must find a verdict for the Crown.

The foreman bowed, and turned to his fellow jurymen, some of whom also in that way signified their acquiescence in his lordship's ruling, while the majority neither assented nor dissented.

The CLERK : Gentlemen, you all say that the defendants are guilty upon this indictment ?

The foreman again bowed, but did not speak, and a verdict of guilty was entered upon the records of the court.

The LORD CHIEF JUSTICE (addressing defendants) : Under these circumstances I will not pronounce sentence against you at present, but I shall order you to come up this day week, when the Court will be sitting in banco ; you will then be heard, as you have given notice upon a point as to the legality of the indictment, you will be heard in exception to it upon any legal grounds you may urge on that day, and if that objection should be over-ruled, the circumstances under which the verdict has been pronounced against you will be taken into consideration, and you can urge anything you desire in mitigation. Until this day week then.

His lordship then rose.

Mr. BRADLAUGH : My lord, do I understand that till this day week we are at liberty to go on the same recognisances as before ?

The LORD CHIEF JUSTICE : Oh yes, certainly.

The Court then rose, and a large crowd which had gathered outside to learn the result, heartily cheered the defendants as they passed to their carriage.

FIFTH DAY.

SITTINGS IN BANCO.

JUNE 28TH.

MR. BRADLAUGH and Mrs. Besant attended the Court of Queen's Bench this morning to receive judgment on a verdict which was found by a special jury on Thursday last. The judges were Lord Chief Justice Cockburn and Mr. Justice Mellor.

When the Court met the Lord Chief Justice said: Mr. Solicitor-General, do you move?

The Solicitor-General bowed in assent.

After several unopposed motions had been made and disposed of,

The Solicitor-General rose, and said: I move the Court for judgment in the case of the Queen against Bradlaugh and another. I understand there is some difficulty about the *postea*.

THE LORD CHIEF JUSTICE: Where is the *postea*? It ought to have been made out and presented to the Court.

THE SOLICITOR-GENERAL: My lord, there was some difficulty, as I understand, in regard to that matter, the Crown Office being unable to get it ready in time for the meeting of the Court.

THE MASTER: The Crown Office has nothing to do with it; it is the duty of the Associate.

THE LORD CHIEF JUSTICE: Yes; of course it is the duty of the solicitor for the prosecution to instruct the Associate to prepare the *postea*.

THE SOLICITOR-GENERAL: I do not understand, my lord, that that is the practice of the Court. I have always understood that it was the duty of the Associate and not of the prosecution to produce the *postea*.

THE LORD CHIEF JUSTICE: It is clearly the Solicitor's duty. I don't know how long it may be before you get it, and if you do not get it now it will be very inconvenient, as, after to-day, we do not sit in *banco*.

THE SOLICITOR-GENERAL: I have not got the *postea* in court, but I understand it is being prepared.

THE LORD CHIEF JUSTICE: I don't understand why it has not been prepared.

THE SOLICITOR-GENERAL: My lord, we have taken steps to get it prepared, and I believe that at this moment it is being prepared.

THE LORD CHIEF JUSTICE: Really, I must say that it is very careless on the part of the prosecution not to have had the *postea* in court.

THE SOLICITOR-GENERAL: It is not the prosecutor's duty at all, it is the business of the Associate.

THE LORD CHIEF JUSTICE: It is the business of the Associate to make it up after it has been applied for.

THE SOLICITOR-GENERAL: I don't know when it was applied for.

THE LORD CHIEF JUSTICE: Only this morning. It appears to me that that places us in a difficulty.

THE SOLICITOR-GENERAL: My lord, I have never felt that difficulty, nor have I understood it to be the practice of the Court to demand it.

THE LORD CHIEF JUSTICE: That is not so. It is the commonest thing in the world to have the *postea* produced.

THE SOLICITOR-GENERAL: According to the ordinary practices, both here and elsewhere, it is not usual to apply to have the *postea* made out. I am told the practice is equally the same on the Crown side.

THE LORD CHIEF JUSTICE: It is not so in criminal cases.

MR. JUSTICE MELLOR: It is not so when there is an exchange to this Court.

THE SOLICITOR-GENERAL: When a motion of this kind is made, after a removal by *certiorari*, it takes the usual course of a civil trial; and under these circumstances I should have understood that the *postea* would have been made up by the proper officers of the court.

MR. JUSTICE MELLOR: It is not so made up.

THE SOLICITOR-GENERAL: I would not contradict those who say so, but if anybody says that, I must confess it is an inconvenient practice. When once a case is moved by *certiorari* to this court, it becomes a civil trial, and I am

told by a solicitor of 40 years' experience that, in that case, the *postea* is made up by the Associate, as in a civil process, whether it is applied for or not.

The LORD CHIEF JUSTICE: All the materials in a case of this kind should have been here, and, if they are not here, it is your duty to have applied for them.

The SOLICITOR-GENERAL: I have always understood that the Associate must send the *postea*.

Mr. Justice MELLOR: When was the application made in this motion?

The SOLICITOR-GENERAL: It was made, at any rate, in time, but I do not know when.

The LORD CHIEF JUSTICE: It ought to be ready in court.

The SOLICITOR-GENERAL: I think it is assumed to be ready.

The LORD CHIEF JUSTICE: It is not assumed at all, Mr. Solicitor-General. The solicitors in this case should have asked the Master what was to be done.

The SOLICITOR-GENERAL: If that were so, there ought to have been no mistake about the thing, as a matter of course. According to practice, the Associate should have made up the record, and it is not at all usual for the prosecution to give notice for the requirement of such a record. The rule varies where there is no time fixed; but in this case it was perfectly well known when it would come on.

The LORD CHIEF JUSTICE: The Associate cannot be supposed to make up the *postea* until he gets notice.

The SOLICITOR-GENERAL: My lord, that is not the practice, I am told.

The LORD CHIEF JUSTICE: Do the defendants intend to move for a new trial or not?

The SOLICITOR-GENERAL: I don't know whether they do or do not.

Mr. BRADLAUGH: Yes; certainly we do. My lord, I have three propositions to submit to you. The first one is a motion to quash the indictment; the second is a motion for arresting judgment on the same ground; and the third is a motion for a new trial, which my co-defendant will make. I do not know, my lord, in what order these propositions should be taken, whether the first motion should be to quash the indictment, or whether I should make to your lordship a motion for arrest of judgment.

The LORD CHIEF JUSTICE: I was not aware, at the time,

what course the trial would take, or what would be the issue which would eventually go to the jury—whether their attention was to be directed to particular parts of the work upon which the prosecution relied, or whether these points were set out in the indictment.

MR. BRADLAUGH: I did not state my objection fully to your lordship; but I asked if I should state the grounds on which I moved, and your lordship said “No.”

THE LORD CHIEF JUSTICE: I beg your pardon, you did state the grounds. You objected that those parts were not set out. If the Solicitor-General had relied upon any particular parts of the work, I should have thought it worth notice, and have explained it to the jury. I should have asked them whether that was well founded. But the argument of the Solicitor-General was not that—it was whether the whole work was not an offence against the law.

MR. BRADLAUGH: With all respect to your lordship, I understood your lordship to put it that I was not then moving at the time I should have moved; and I did not press upon your lordship the grounds upon which, if I had been in time, I should have moved. I stated to you simply that I moved to quash the indictment.

THE LORD CHIEF JUSTICE: I declined to quash the indictment.

MR. BRADLAUGH: I thought it was a refusal to hear the motion. If I had understood that you refused to quash the indictment, I should not have suggested to your lordship the grounds on which I felt entitled to move at *nisi prius*; but, on the contrary, I thought that your lordship said you could not hear the motion at all, and I understood your lordship to say that you would reserve the point to me.

THE LORD CHIEF JUSTICE: So I have; but if you move for a new trial you must state the grounds for saying that the indictment is illegal, and you have a perfect right to do so.

MR. BRADLAUGH: Quite so, my lord. Then I move to quash the indictment, or to arrest judgment on the ground that the indictment is for an obscene libel, and that the words supposed to be criminal in that libel ought to have been expressly specified in the indictment, and they are not specified in the indictment. In Archbold's “Criminal Practice,” page 58 (18th edition), he says that “where words are the gist of the offence, they must be set forth with particularity in the indictment.”

Mr. Justice MELLOR : That is, in a case of libel, it might be so.

Mr. BRADLAUGH : Very well, my lord. And in the case of the Queen against Sacheverell, which is reported in the 15th Howell, page 466, the Lord Chancellor put this question to the judges: "Whether by the law of England and the constant practice in the courts in all prosecutions by indictment, or information for crimes or misdemeanours, either by writing or by speaking, the particular words supposed to be criminal must not be expressly specified in such indictment or information?" Baron Lovell replied: "I have always taken it to be so, and by constant experience we have practised it so, that all words or writings which are supposed to be criminal ought to be expressly mentioned in the information or indictment."

The LORD CHIEF JUSTICE : Yes, I understand that to be so.

Mr. BRADLAUGH : Mr. Justice Dormer said, "I am of opinion that by the laws of England and constant practice in all prosecutions by indictment or information for crimes or misdemeanours in speaking or writing, the particular words supposed to be criminal ought to be specified in such indictment, or information in the Courts of Westminster." Baron Bury said, "I am of the same opinion with my brothers." Mr. Justice Tracy said, "I am of the same opinion." Mr. Justice Gould expresses precisely the same opinion, but he states it with a little more particularity. He says, "It is our practice in the Court of King's Bench, and we specify the words in the indictment, or it is cause of demurrer." Mr. Justice Blencove and Mr. Justice Powys express the same opinion.

The LORD CHIEF JUSTICE : Well, we take it to be so from all.

Mr. BRADLAUGH : My lord, the whole of the judges, thirteen in all, delivered the same opinion, except that some put it more elaborately than others. There is only one case which I have been able to find which in any way goes against us, and that is the case of the King *v.* Christopher Layer for high treason, and which you will find reported in the sixteenth volume of Howell, page 317; but in the case of the King *v.* Goldstein, which is reported in the third Broderick and Bingham, page 210, in a judgment referring to another matter, it was then declared that the words in the original libel must be set out. The same thing was put in

the case of *Zenobia v. Axtell*, which is reported in vol. six of the Term Reports, page 162; and I submit to your lordship that the setting out of the words in the indictment has been the constant practice in the courts. Folkard, on "The Law of Slander and Libel," says that the libellous matter must be set out in the indictment, and that care should be taken to express it correctly. On page 773, he gives the form for publishing and selling an obscene libel and there directs the passage to be set out. In Mr. Prentice's recent edition of Russell on Crimes, page 219, he says, "The libellous matter must be set out in the indictment, and the libel proved must appear to correspond with the statement of it in the indictment." And on page 252, he gives another illustration of the same contention. Archbold, in his book, on pleading in criminal cases, on page 808, says pretty nearly the same. He says distinctly, "that the libel itself must be produced in evidence, and must correspond in substance with the indictment." On page 803, he gives the form of an indictment, and in that form he specifies that the words to be relied upon ought to be set out. On page 806, he says that the indictment must contain the libellous passages, and that these must be set out correctly, and on page 806, he says that besides setting out the words there must be averments to support the indictment on those libellous passages. What I would submit to you, my lords, is this—that the necessity for that procedure becomes very clear. Broom, in his "Commentaries," says (vol. 4, page 408) that the indictment must have precise and sufficient certainty in order that the defendant may know what it is that he is called upon to answer. Our difficulty, my lord, is this, that it does not appear from the indictment under which we are charged, what we are precisely called upon to answer.

THE LORD CHIEF JUSTICE : The whole book is complained of, and you are called upon to answer that complaint.

MR. BRADLAUGH : Quite so, my lord; but we did not know when this prosecution commenced whether we had to answer for the argument of the whole or for the language of a part.

THE LORD CHIEF JUSTICE : Suppose that they had set out the whole of the book.

MR. BRADLAUGH : Then, my lord, I should have had nothing to say.

THE LORD CHIEF JUSTICE : But if that had been so, you would still have been in the same difficulty. It is a book

and you must assume that that means the whole of the book.

Mr. BRADLAUGH : No, my lord, because the difficulty here is that I did not know, at the commencement of these proceedings, and I do not know now after having been tried, and having listened to the address of the learned Solicitor-General, whether the point which makes this book criminal is the advocacy of particular checks to over-population, or whether it consists in the alleged obscenity of some language in which those particular checks are advocated.

The LORD CHIEF JUSTICE : Just so ; that is a perfectly valid argument.

Mr. BRADLAUGH : My lord, supposing the advocacy to have been obscene in some points, or the language used to have been obscene, that would have been an issue definite and clear ; but, even then, I should argue that the book as a whole, or the parts specified, ought to have been set out in the indictment at length.

The LORD CHIEF JUSTICE : Suppose it to be so, then you have a twofold objection. First, that the book is not obscene in its language, and, secondly, that if it is obscene at all, the thing that makes it so is the advocacy of practices that are obscene. In the argument the whole book, it is said, is open to the charge of obscenity.

Mr. BRADLAUGH : Then, my lord, I say that if that is the offence, it should appear on the face of the indictment I have to answer.

The LORD CHIEF JUSTICE : No doubt ; so it is if the whole book is charged, and, if the whole ought to be set out.

Mr. BRADLAUGH : I submit, my lord, that the setting out of the title of the book is not setting out the obscene words which it is said constitute our offence, and which we have to answer here. I submit, my lord, that the whole of the cases, so far as I have from reports been able to gather them, either put the libel on the ground of obscenity of parts, or of the obscenity of whole books. My lord, in the case of the King against Curl, reported in the 17th of Howell, which is the first case of this character which was ever tried and decided, the libellous passages are set out at length on the face of the indictment. There was one other case prior to Curl which was partially tried, but for some reason or other it dropped through. The first case, however, of an obscene libel which was ever punished by the

Court was the case of *Curl*, and there, as I have said, the libellous parts of the book were set out. And, my lord, in almost every case that I can find since reported in the books, the parts of the books which have been considered libellous have been set out. The difficulty we are in, my lord, is this : that, as the indictment stands, we do not know whether our offence is for publishing obscene words or for propounding a theory which the jury now find to be within the penalty of the common law. There have been, undoubtedly, cases in which the statute has very much limited the practice as to setting out documents ; and I shall put it to your lordship that where the statutory limitation in some cases has been made it is ample for the support of my contention that there is a strictness to be observed in all cases in which the statutory limitation has not been made, and that this must be so defined in this case. Our difficulty, my lord, is that a new kind of offence is manufactured here, and that deals with the second point which I will put before you, that through the quashing of the indictment, or the arresting of judgment, you will say whether there is any offence against the law made out against us. If our offence be the advocacy of checks to over-population, we say that that is an offence which has not hitherto been known to the common laws of England.

THE LORD CHIEF JUSTICE : That is matter for a new trial, but not for quashing the indictment.

M. BRADLAUGH : It is, my lord, matter for a new trial, and on that point my co-defendant will address you.

THE LORD CHIEF JUSTICE : Do you move for a new trial or not ?

Mr. BRADLAUGH : Well, I will.

THE LORD CHIEF JUSTICE : You are here two defendants ; unless you now ask for a new trial on the ground you have stated, you cannot afterwards do so.

Mr. BRADLAUGH : Then, my lord, I ask for a new trial on the ground that the advocacy of checks to over-population does not constitute a libel within the common law. I do think, my lord, from the dictum of my Lord Mansfield in the case of *Woodfall*, that it would have been also a fair matter for the arrest of judgment, but I do not want to put it improperly to your lordship. I say that the common law on this matter is the common usage, and this common usage commenced with the case of the *King* against *Curl*, before which no offence of this character was known to the

common law at all. But at the same time, to be perfectly fair, I admit that it was before that time known to the ecclesiastical law. Since that period, however, the common usage for at least 100 years has been to discuss checks to over-population, without any sort of limitation against such discussion, nor has it been even hinted to be an offence against the law.

THE LORD CHIEF JUSTICE : The difference is obvious. The offence clearly is in the suggestion itself. There are checks consistent with morality, and on the other hand there are checks inconsistent with morality, and the question here was, whether the proposal contained in this book for the use of certain checks to over-population was culpable or not. That was the matter for the jury to consider and determine, and they have done it.

MR. BRADLAUGH : But they have not determined it ; they had not even the power to determine it, so as to create a new offence.

THE LORD CHIEF JUSTICE : It is not a new offence. It is an offence against law to publish anything inconsistent with public morality. Before the case of the *King v. Curl* there was no decision on this matter, but judges have held from that time to the present—and we must take it to be settled law—that you cannot publish a book which is inconsistent with public morals.

MR. BRADLAUGH : With all submission, my lord, I will put it to you that Sir James Stephen, in his work of criminal law, page 505, in a note suggests that “A man may write with perfect decency of expression, and in complete good faith maintain doctrines as to marriage, the relation of the sexes, &c., which would be considered highly immoral by most people, and yet I think he would commit no crime.” The obscene and the immoral are, in this wide sense, distinct from each other, and I understood the contention of the learned Solicitor-General to be that those checks were immoral because they might imply, and, in fact, did imply incitements to unchastity amongst unmarried people, and I submit that even if this were so, you could not convict us under this indictment.

THE LORD CHIEF JUSTICE : As I understood the learned Solicitor-General, his contention was that the practice of such things amongst married people would have a demoralising effect, and would have a yet more demoralising effect amongst unmarried people by one of the restraints which now exist being removed.

Mr. BRADLAUGH : Even then, my lord, I should submit that this would not be an indictable misdemeanour.

The LORD CHIEF JUSTICE : What you argue, then, is that promiscuous intercourse might be lawfully advocated?

Mr. BRADLAUGH : I do not go so far as that, nor does it arise under the circumstances ; but according to the case of the King *v.* Pearson, which is reported in Salkeld, page 382, —which goes to a length which this pamphlet does not— even supposing it had contained solicitations to unchastity, that would not have been an indictable offence.

The LORD CHIEF JUSTICE : Then, Mr. Bradlaugh, would you say that it is lawful to advocate promiscuous intercourse, or do you say that if a man publish a book recommending illicit intercourse that would not be an indictable offence?

Mr. BRADLAUGH : I do not go so far as that, and the case of the King *v.* Pearson is much stronger than I would be disposed to contend before your lordship. That case is reported in Salkeld, page 382. I should be personally inclined to regard the illustration which your lordship has just been kind enough to give to me as a fair illustration of a libellous writing. But here I contend that there is no such solicitation to unchastity, no violation of public morality, no outrage of good manners in the mere discussion of such a subject as this, or in the advocacy of checks to over-population, which the jury have found to be depraving and tending to corrupt public morals ; and I say, my lord, that this verdict has so been found, condemning the advocacy of checks, against the common usage, for works advocating such checks have been allowed to be freely printed and openly circulated for nearly one hundred years, and moreover it seems to me that such advocacy is peculiarly moral and reasonable at the present time in this country. I think I shall be within your lordship's remembrance if I put it to the Court that so far as the mere language of the pamphlet is concerned, no fault can be found with it, if it is once conceded to me that the advocacy of checks is anywhere permissible, and if there is nothing immoral in the checks themselves. If that is so, I need not trouble to contend that the pamphlet is not in its language immoral, and so far I think I have said all that is necessary for the sake of meeting the argument which has been used against me here. I would ask simply, may the jury construe this book, because it advocates checks to the population, as coming within a con-

travention of those unwritten laws which are specially against the depraving of public morals? An advocacy of a particular class of check being, as I think, permissible, I am entitled to advocate such checks here, because clearly there would not be the slightest pretext, if Malthus may advocate the delay of marriage in order to check the overgrowth of population, for saying that I may not advocate scientific prudential checks for the same purpose; and therefore it cannot come within the scope of juries to judge and condemn a book on that ground. If the argument is fair in the mouth of the Solicitor-General that this case is to be raised into a precedent for condemning that for which there has up to this time been no precedent, I think I am entitled to say that we should look with very great disfavour upon such a mode of extending the law of the land, and I say further that, if your lordship allows this verdict of the jury to be permitted to stand, a new offence will be created—an offence which has hitherto been completely unknown to our law. In the case of the *King v. Hicklin*, we see that which I am contending for—*i.e.*, that if it is a subject which may be discussed at all, it cannot be discussed without to a certain extent producing authorities and quoting necessary facts. Now, I contend that the right to discuss checks is permissible, and that there is nothing in the pamphlet which is not necessary and legitimate to that discussion.

Mr. Justice MELLOR: Is it your contention that if the subject is one which may be discussed at all, it can be discussed without violating the law, if the manner in which you discuss it is found to have the tendency to corrupt the public morals?

Mr. BRADLAUGH: My lord, I am contending that the Population Question is one which may be fairly discussed, and for my right to produce scientific and medical authority in the discussion of that subject, and for the right to advocate checks which in themselves are not immoral, and to urge upon people the adoption of such checks to over-population; and even if we should have made a mistake by publishing a book containing a particular character of check which a jury declares to have an immoral tendency, unless we have done that which we have done with a wicked and corrupt motive, and with a bad intention, there is no pretence for saying that we have done anything to violate the law. Nor can it be said that in this book there is anything obscene arising from an exaggeration, indelicate allusion, or highly-coloured

statement of fact, and, therefore, I contend that you ought to pause before accepting this verdict at the hands of the jury and thus create a new offence for which your lordships might lawfully punish us. If there is any word regarding such an offence in the statutes of the country, we might be concluded under this indictment, but if there is no such word we can only be concluded by the common usage of the country.

The LORD CHIEF JUSTICE: There you are wrong—the common law of the country.

Mr. BRADLAUGH: An eminent judge, my lord, has put it that the common law of the country was made by the common usage of the country.

The LORD CHIEF JUSTICE: We have got a proposition of law to deal with here, and not that it is understood that we are to allow a usage, however common, to override the law.

Mr. BRADLAUGH: My lord, I bow, of course, to your lordship's doctrines. Some references were made to the work of Churchill, who in the case of some diseases thought it was permissible to advocate the procuring of premature delivery. Suppose that the jury were asked to construe its illegality, although there is no violation of good manners, the book of Churchill would be indictable in the same fashion.

The LORD CHIEF JUSTICE: We cannot suppose that any jury would be so foolish as to find that what a medical man may professionally recommend, in dealing with certain cases amongst his patients in the exercise of his judgment, in order to save life, might be construed into an offence against the law.

Mr. BRADLAUGH: I do not think, especially with the evidence of scientists on our side, that the jury should have come to the conclusion that the check which we advocate for the hindrance of our population is illegal, and yet they have so held. There are other grounds upon which I might urge upon your lordship, that we are entitled to a new trial, with which I shall not trouble the Court, because they are to be argued by my co-defendant, and I have no wish to take up the time of the Court unnecessarily. I have now stated the different points upon which I rely. It would have been easy for me to have gone into the matter at greater length. I would just add that I specially rely upon the first point which I submitted to your lordship.

Mrs. BESANT: I move, my lord, as my co-defendant has just done, to quash the indictment: in the first place, on the very ground put by the Lord Chief Justice—viz., that the

whole of the book is supposed to be in the indictment, and, therefore, that the whole of the book must be taken to be obscene.

The LORD CHIEF JUSTICE : No, no. You put it wrongly. Not the whole of the book, but the book as a whole, is obscene.

Mrs. BESANT : The book, as a whole, is to be taken as obscene. But your lordship drew the distinction between the checks that are advocated and those parts of the book which are not obscene, and I put it to your lordships that the jury in their verdict did not draw that distinction, and that from the verdict of the jury we have no means of knowing what parts of the book they condemn.

The LORD CHIEF JUSTICE : They condemn the whole of it.

Mrs. BESANT : They condemn the whole of it ; and if I publish another pamphlet in which I should leave out those parts containing the advocacy of checks to population, that pamphlet would also be condemned, because the advocacy of the law of population is condemned by that verdict.

Mr. JUSTICE MELLOR : No.

Mrs. BESANT : My lord, should we not, by that verdict of the jury, know what it is that constitutes our offence ?

The LORD CHIEF JUSTICE : Your offence is that of publishing such a book as has been declared to be obscene.

Mrs. BESANT : But, my lord, is it for advocating the checks to population that we are condemned ?

The LORD CHIEF JUSTICE : I am bound to say that is the gist of the inquiry.

Mrs. BESANT : My lord, I feel that it is, but the jury did not say so.

The LORD CHIEF JUSTICE : I agree that the language of the book is not open to any particular objection, and if it had been a medical book it would have been still less objectionable. The question is, are you entitled to say that it is a medical work ? When we come to the checks proposed, that was a question for the jury, and it was for them to say whether the proposals were such as ought to be practised at all, and without considering whether your motive was this or that, or that you published the book with this or that object, whether the book was one consistent with public morality or not. That was the issue, and it was determined against you.

Mrs. BESANT : When I come to the arguments for a new

trial I shall put it to you that a jury ought not to be permitted, without grave hesitation, to lay down the law on a question of ethics which has never yet been decided, and to decide that the practices recommended by Churchill were right as a recommendation to be made by a medical man, and that another recommendation which is made by another medical man — Dr. Knowlton — was wrong. Besides, there is this difference between the two recommendations, that in the first it is advocated under certain circumstances to destroy life, and in the second the recommendation is that there should be no necessity for destroying life at all. I will therefore move that the verdict entered on behalf of the Crown should really and truly have been entered for the defendants, on the ground that the verdict was a special verdict, and was really a verdict of not guilty. And I move for a new trial on the ground that the form of words used in the delivery of the verdict was self-contradictory, was utterly against the weight of evidence, and that when the verdict was brought in, it was recorded as a verdict of guilty by misdirection. I feel there might be a difficulty here in speaking of misdirection, were it not that I am practically appealing from the decision of the Lord Chief Justice at *Nisi Prius* to the Lord Chief Justice in *Banco*, and I am therefore sure of a patient hearing. The verdict as given, was: "We are of opinion that the book is calculated to deprave the public morals, but we entirely exonerate the defendants from any corrupt motive in publishing the book;" and in the indictment, one copy of which has been handed up to the Bench, we were charged with a wicked and corrupt motive.

THE LORD CHIEF JUSTICE: I did not so regard it.

Mrs. BESANT: We are distinctly charged with having a corrupt intention, and with the object in the publication of the book of corrupting public morals. We are charged with having intended to have caused a corruption of public morals by having published an obscene book. However, my lord, I contend that the special verdict is a verdict of not guilty, because a corrupt intention is distinctly charged in the indictment, and the jury have specifically acquitted us of the corrupt intention. If the jury had returned a verdict of guilty, of course I should not have had the right to make this motion, for a verdict of guilty on the indictment would necessarily imply, or at least it would presuppose, a corrupt intention, and such a corrupt intention

must have been found to bring us in guilty. Where the jury, however, brought in a special verdict and particularly put the negative on the intention, in that case I contend that they have negatived a vital part of the indictment, and cannot bring us in guilty on the whole, the special verdict having specifically declared that we are not guilty of such a corrupt intention. I find that Lord Mansfield laid it down in the case of the *King v. Woodfall*, which is reported in *Howell's State Trials*, vol. 20, column 919, that this must be so. The verdict there was in the nature of a special verdict, although the phraseology used in favour of the accused was not so strong as that on which I am addressing your lordship. I find Lord Mansfield laid it down there : "That where an act in itself indifferent, if done with a particular intent, becomes criminal, there the intent must be proved and found ; but where the act is in itself unlawful, as in this case, the proof of justification, or excuse, lies on the defendants, and in failure thereof, the law implies a criminal intent." I urge upon your lordships that we have not failed in proving our intention to be good, because the jury expressly exonerated us of any criminal intention, and I quote Lord Mansfield to show that where there is such an exoneration by the jury the verdict should be one of not guilty. I will urge further upon your lordships that where the act charged is indifferent—and in this case it surely is indifferent, because unless the intention is corrupt the book is not corrupt—the intent to corrupt must be proved : that on that ground also the verdict should be one of not guilty.

The LORD CHIEF JUSTICE : I beg your pardon. It is found that the book is calculated to deprave public morals——

Mrs. BESANT : Yes, my lord, to deprave public morals.

The LORD CHIEF JUSTICE : And that being so I shall be obliged to hold that the publication of the book is contrary to law.

Mrs. BESANT : When the indictment was drawn up there was no reason to suppose that a physiological treatise was illegal, and therefore the act was presumably an indifferent act.

The LORD CHIEF JUSTICE : The person who publishes a work of the kind we are dealing with, and which is open to the objection found against it, must, whatever his intention, abide by the results of his act.

Mrs. BESANT : Where the act charged is not known to be unlawful, the defendant surely has the right to show that in the act itself there was a good intention ; and I affirm that in this case we have succeeded in proving that good intention.

The LORD CHIEF JUSTICE : There is where you are mistaken in your law. You do an unlawful act, and you are bound to abide by the consequences. You cannot say, "I disobeyed the law, but I did so with a good intention." Your business is loyally to obey the law, and not to do something which violates it.

Mrs. BESANT : My lord, I should not have argued as I am doing if the jury had brought in a verdict of guilty. In that case I would have loyally acknowledged your lordship's proposition, and felt myself constrained to submit to the decision ; but where they go out of their way to find a special verdict, I plead that it is not a verdict of guilty.

The LORD CHIEF JUSTICE : The answer to that is that on the part of this indictment which charges you with an unlawful offence, the jury have found you guilty. And if the part had never been written which charges the intention, I should have held that the indictment was good without it. It was not necessary to the validity of the verdict that the superfluous part should be found, and the indictment would have been good without it. If you publish a book which is calculated to deprave public morals, that is an offence against the law ; and although, in the unnecessary and superfluous part of the indictment, there is no judgment against you, the primary matters not being objected to and being found guilty here, the verdict is a perfectly valid one.

Mrs. BESANT : Then, my lord, I must urge upon you that if the indictment is badly drawn——

The LORD CHIEF JUSTICE : It is not badly drawn if something is put in that might have been left out altogether. If it is useful enough for the purpose, the useful part is not corrupted by the useless part.

Mrs. BESANT : My lord, I argue that the corrupt intention is a vital part of the indictment.

The LORD CHIEF JUSTICE : Oh, if that is so, you can argue it.

Mrs. BESANT : I argue that it is so, my lord ; and that being so, that vital part has been negatived by the jury, and, therefore, the verdict must fall to the ground. I say

that a good verdict required that the vital part should be found, and that the part which really is vital is shut out by the special verdict given ; and I will put it to you on the authority of Broom, who lays it down on page 41, vol. iv., that in an act which is criminal, the act must be such as affects and prejudices the public ; and, secondly, that the act must have proceeded from a guilty mind, and must have been done with criminal intent. And I urge upon your lordships that throughout the whole course of English law it has invariably been held to be so. Your lordship pointed out to the learned Solicitor-General that it would be a most strange anomaly if a defendant charged with the intention to vitiate and corrupt public morality was, notwithstanding being so charged, acquitted of such intent by the prosecution, and yet found guilty on the indictment. My lord, there is no such anomaly in English law, as I shall hope to show you. Right through the authorities I think your lordships will find that a malicious intent is necessary to the crime. If you take the case of homicide, the offence, whether it be murder or manslaughter, lies in the intention ; and if there was not such intention found or supposed, the charge could not be sustained. If the charge were one of murder, the negating of the bad intention would make that verdict for murder fall to the ground. The man could be prosecuted after for manslaughter, I suppose, but not convicted of it there and then if the indictment were only one for murder.

The LORD CHIEF JUSTICE : Oh, yes, he could.

Mrs. BESANT : If there was a count for manslaughter in the indictment, my lord.

The LORD CHIEF JUSTICE : Not necessarily. An indictment for murder would include manslaughter, because the greater includes the less.

Mrs. BESANT : Mr. Erskine, arguing in the case of the King v. John Cuthell, which is reported in Howell, vol. 27, cols. 661 and 662, puts it there that the indictment charging the bookseller with publishing a seditious libel must say that he did so with a malignant intention, and argues that if the bookseller had no such malignant intention he should not be brought in guilty. He puts the very point I have just urged : " Let it, for argument's sake, be taken that such an indictment [for malignantly publishing] may, even as the law stands, be properly maintained ; but, if this be so, why should not the indictment, in conformity with the universal

rules of pleading, charge such negligence by a distinct count? Upon what principle is a man who is guilty of one crime to be convicted, without a shadow of evidence, or in the teeth of all evidence, of another crime, greatly more heinous and totally different?" That is our own case; we are brought in by direction of the judge guilty on an indictment which charges us with a crime from which the jury expressly exonerated us. Erskine might have been pleading our case as he goes on; he says: "The Libel Act lies before me, which expressly and in terms directs that the trial of a libel shall be conducted like every other trial for any other crime; and that the jury shall decide, not upon the mere fact of printing or publishing, but upon the whole matter put in issue—*i.e.*, the publication of the libel with the intentions charged by the indictment. This is the rule by the Libel Act, and you, the jury, as well as the Court, are bound by it. What, then, does the present indictment charge? Does it charge merely that Mr. Cuthell published, or negligently published, the 'Reply to the Bishop of Llandaff'? No; it charges, 'that the defendant being a wicked and seditious person, and malignantly and traitorously intending to secure the invasion of Great Britain by the French, and to induce the people not to defend the country, had published,' &c., setting forth the book. This is the charge, and you must believe the whole 'complex proposition before the defendant can be legally convicted. No man can stand up to deny this in the teeth of the Libel Act, which reduces the question wholly to the intention, which ought to be a foundation for their verdict. Is your belief of negligence sufficient to condemn Mr. Cuthell upon this indictment, though you may discredit the criminal motive which is averred? The best way of trying that question is to find the negligence by a special verdict, and negative the motives as alleged by the indictment; do that and I am satisfied." He asks, in fact, for the very verdict which was given to us. He goes on to urge that a publisher, whose whole life disproves the charge, cannot, "by virtue of an abstract legal proposition," be brought in guilty of wicked intent. "I positively deny," he says, "such a doctrine, and I am sure that no judge ever risked his character with the public by delivering it as law from the Bench. The judges may have been bound at *Nisi Prius*, as I admit they are, to decide according to the current decisions. I will meet my learned friend, the Attorney-General, in the

Lords' House of Parliament on that question, if you, the jury, will assist me with the fact to raise it by finding as a special verdict—"That the book, if you please, was a libel—that Mr. Cuthell, the defendant, published it; but that he published it from negligence and inadvertency, without the motives charged by the indictment." My lords, Lord Erskine did not even ask for a verdict such as ours, a verdict exonerating us from all fault; and he goes on: "If you, gentlemen of the jury, will find such a verdict, I will consent never to re-enter Westminster Hall again, if one judge out of the twelve will, upon a writ of error, pronounce judgment for the Crown." That contention, my lord, has been sustained in many cases. In the case of the *King v. W. Owen*, which you will find reported in the 18th vol. of Howell, it was argued that you must find the intention before you can find a verdict of guilty. Mr. Pratt, afterwards Lord Camden, says (column 1227):—"To show you how necessary it is to prove the intention; if there is an indictment preferred against a man for an assault, with an intention to ravish, the intention must be proved, or else the jury cannot find him guilty. The same of an assault, with an intention to kill, if the intention is not proved he must be acquitted. If he kills, and the intention is not proved—that is, if it is not proved that he killed premeditatedly, and of forethought—it is but manslaughter. Therefore, in the case before us, if that part of the information is not proved, that he published maliciously, &c., you must acquit him." Erskine, in another trial, pointed out that he had argued against Lord Mansfield on this ground, and that the legislature, by statute, had maintained his contention. You will also find that, in the case of the *King v. James Lambert, Perry, and Gray*, which is reported in the 22nd vol. of Howell, column 1019, that the verdict there given was "Guilty of publishing, but with no malicious intent." In the case of the *King v. Daniel Isaac Eaton* the same kind of verdict was returned. In Howell, vol. 22, column 780, the verdict is given:—"We find the defendant guilty of publishing, but not with a criminal intention." In that case the counsel for the defendant said that was a verdict of not guilty, and that the verdict must be entered so. The Recorder said that the verdict must be entered as the jury gave it, and when he was going to explain to the jury, the counsel said:—"I contend that the verdict of the jury is given, and that it is complete and irrevocable;" and he

urged that it was in fact a verdict of acquittal in the form of a special verdict. The prisoner was let out on bail, and the question as to the meaning of the verdict was referred to the twelve judges, and appears never to have been decided. The man was taken up on another indictment to the Court of King's Bench, where he was tried for practically the same offence. There the verdict given was one of "Guilty of publishing." The Attorney-General, who afterwards became Lord Eldon, moved the Court of Queen's Bench that the verdict should be entered as one of guilty, but he never took any further action, and the whole trial dropped to the ground. The verdict given in the case of Eaton was given against a hostile summing-up, instead of, as in our case, one which was perfectly fair and impartial right through. In spite, however, of that the verdict was not accepted as one of guilty. It stood on the record as a special verdict, and on its first delivery there was a new trial.

MR. JUSTICE MELLOR: What do you say the precise terms were which the jury delivered in this case.

MRS. BESANT: "We are of opinion that the book is calculated to deprave public morality, but we entirely exonerate the defendants from any corrupt motive in publishing the book."

MR. JUSTICE MELLOR: Well, what happened then?

THE LORD CHIEF JUSTICE: I told the jury it being found that the publication before them was a publication of the defendants, if, they were of opinion that the publication was contrary to public morals, and if its tendency was to deprave, then the question of intention was not one of which they might take into account. The want of evil intention might be considered in the question of punishment. But a person that has been intentionally the publisher of a work which the jury found was contrary to public morals was guilty of the offence charged. Therefore the jury found a verdict of guilty.

MRS. BESANT: I urge, with all possible submission to this Court and with every respect to the judge who gave the direction, that the special verdict of the jury, by all precedent, ought to have been put on record.

THE LORD CHIEF JUSTICE: You cannot argue so. It must either be a verdict of guilty or not guilty. It is open to you to argue that I ought to have directed the jury otherwise, but you must have, in criminal cases, a verdict of guilty or not guilty.

Mrs. BESANT : Such a verdict as this has been entered, my lord, as these cases show.

The LORD CHIEF JUSTICE : If there was nothing in the verdict which was favourable to the book, then I must put it to you that there could not, in the end, be a verdict of anything else but guilty.

Mr. Justice MELLOR : If the verdict of the jury acquitted the defendants of matter essential to the offence, the verdict should be one of not guilty, but that depends upon the previous question, "What did constitute the elements of the offence?"

Mrs. BESANT : Quite so, my lord.

Mr. Justice MELLOR : I also think that the direction of the judge was perfectly unimpeachable. The intention was the publication of the book, and the part of the indictment which laid the intention was not proved ; and, on the other hand, the intention to publish was not disproved. But the intention was to publish the book, and if the book itself be a book having the tendency to corrupt public morals, although the defendants have no corrupt intention, the publication itself is an offence, and, as such, punishable, and whatever the intention was, the publishing is no less an offence, the book being of the character found. Besides you intended to circulate, and in circulating the book you are doing an overt act, and the judge directed very rightly, I think. That is really the essence of the matter.

Mrs. BESANT : I am afraid I shall be obliged to press upon your lordships that, as the indictment stands, we have been found guilty of an intention to corrupt, in the words of the indictment itself, and it is not quite fair when that is distinctly done away with that the verdict should stand as a verdict of guilty on that indictment, although no such intention as is alleged is found.

The LORD CHIEF JUSTICE : That is as far as you are morally concerned. The jury have acquitted you of any corrupt intention.

Mrs. BESANT : And, my lords, having done so, can there be a verdict of guilty? The verdict of guilty will be recorded on that indictment, and there will be no record of the acquittal of evil motive.

Mr. JUSTICE MELLOR : You are found guilty of an offence against the law.

Mrs. BESANT : In the cases of Lambert and Eaton, in both of which there was the same verdict as that returned

here, and in all the cases, without one exception, so far as I know, when it was moved that the verdicts be set aside, a new trial was granted. There was one case where the verdict was one of "guilty of publishing only." That was the case of Woodfall, and there, by an appeal to the House of Lords, a decision for a new trial was given. Lord Chief Justice Mansfield delivered the judgment, and he said that the word "only" entirely vitiated the verdict: "It is impossible to say with certainty what the jury really did mean; probably they had different meanings. If they could possibly mean that which is expressed would acquit the defendant, he ought not to be concluded by this verdict. It is possible some of them might mean not to find the whole sense and explanation put upon the paper by the innuendoes in the information. If a doubt arises from an ambiguous and unusual word in the verdict, the Court ought to lean in favour of a *venire de novo*. We are under the less difficulty, because, in favour of a defendant, though the verdict be full, the Court may grant a new trial. And we are all of opinion, upon the whole of the case, that there should be a *venire de novo*."

MR. JUSTICE MELLOR: There is no doubt as to what the jury intended in your case. They intended to find that the book was one which had a tendency to corrupt public morals.

MRS. BESANT: And yet they found that we had no such intention to corrupt, which, I venture to say, is a contradiction of terms.

MR. JUSTICE MELLOR: You must not confound corrupt intention with intentions of a moral quality.

MRS. BESANT: It was presumably a case of malicious and corrupt intent when a book was alleged to be dangerous to the State, and yet, as I have shown, where the verdict was of this character, the Court granted a new trial on the ground of the ambiguity of the verdict returned. I have, I think, therefore, the right to ask your lordships, seeing that the jury were undecided for an hour and thirty-five minutes, and that, at last, they brought in a verdict acquitting us of all intention to corrupt, to grant us a new trial. It is not contended that the book contains language not proper in a medical book; and it is altogether a case of such difficulty that I think we ought to have a new trial, and so have the opportunity of arguing the case once more. Especially is that reasonable when so many cases are found where special

verdicts have resulted in new trials, and I trust that this Court will not make the new precedent of pressing against a defendant, where a verdict such as this has been given. If it is maintained by this Court that our demand for a new trial should not be allowed, a new law will have been made by the verdict of the jury, because the offence of advocating checks upon over-population was not known to the law until that verdict was given ; and I will venture to urge that, if the verdict be sustained as a verdict of guilty, it will be maintaining a verdict of guilt of opinion, and not a verdict of guilt of act ; and, however confident the jury may be that their verdict is right, it should not be allowed that they are a competent tribunal to judge of the character of opinions ; they should have no power to bring the holders of such opinions, whether the opinions be right or wrong, within the reach of the criminal law. If you do that you will be acting in a most high-handed way, and introducing a precedent of a most dangerous character. You will be giving the right to a jury of stopping the discussion of any question on which they disagree with the prisoner, and to maintain that verdict in this Court will be to bring a large number of people within the reach of the law, because they come before a jury whose opinions happen to disagree with those which they hold.

The LORD CHIEF JUSTICE : If you put that as a matter of law, I agree that it would be very unfair to create such a precedent, but I doubt whether this verdict does so.

Mrs. BESANT : I contend that it does, my lord.

The LORD CHIEF JUSTICE : You both concurred with the remark of the Solicitor-General, that this was a matter entirely for the jury.

Mrs. BESANT : That is very true, my lord.

The LORD CHIEF JUSTICE : It is not a question for the judge, but eminently for the jury ; but now you say, although on the trial it was entirely for the jury, that because the verdict happens to be against you it should not be allowed to stand.

Mrs. BESANT : No, my lord, I do not say that. I say that the verdict ought to be set aside because it is self-contradictory, and also because the decision of the jury was given, your lordship says, not against the language of the book, which they might fairly judge, but against the advocacy of preventive checks to population—a question of ethics which, I submit, they are not competent to decide. I

acknowledge that their verdict was supreme in the court below, but many verdicts have been set aside, and there is a right of appeal against verdicts given by juries.

THE LORD CHIEF JUSTICE : No doubt ; but it was a matter entirely and eminently for the jury, entirely within their cognizance, and the Court cannot say that the jury have gone wrong. Why are we to take upon ourselves to say, then, that their verdict should be set aside ?

Mrs. BESANT : They did not bring in a verdict of guilty, my lord.

THE LORD CHIEF JUSTICE : They did, indeed. They brought in the verdict they intended. They' said, our opinion is that the book is corrupt, but we do not think the intention of the defendants in publishing the book is corrupt, direct us what to do. And I directed them that if they found the book to be of that character the intention was not for them, and that the verdict was one of guilty.

Mrs. BESANT : My lord, I will leave it, then, upon that point.

THE LORD CHIEF JUSTICE : They did not know how the law would affect the case under the special circumstances.

Mrs. BESANT : This verdict, I think, is of so doubtful a character that it ought to be taken as ground for a new trial.

THE LORD CHIEF JUSTICE : Suppose another jury had sat upon the case, and that they said the book is not one that ought to be published, but we think the defendants published it with the motive that they thought they were acting for the good of the people, or that they published it in ignorance.

Mrs. BESANT : My lord, that happened in the case of the prosecution of the publisher of Paine, and after the second expression of opinion the prosecution dropped, and the right to publish the works became admitted, and they are now openly sold. A verdict of this kind has, many times, been made the ground of a new trial before, and I trust you will think it a ground for ordering a new trial now. I simply leave that for your lordships' decision.

THE LORD CHIEF JUSTICE : Do you wish to add anything on the subject of the indictment now, Mr. Solicitor-General ?

THE SOLICITOR-GENERAL : I would not have been sorry if the defendant had not quoted the case of Dr. Sacheverell. The decision of the House of Lords was, that it was not necessary to set out the particular words upon the face of an indictment, after the opinion of the judges was known.

In a note appended to the case there is a reference to the case of *Layer*, where the whole matter was brought up and discussed. It is to be found reported in *Howell's State Trials*, volume xvi., where it was contended that the matter that was charged was treason, and the act of publishing ought to have been set out in the indictment. It was decided that the opinions given in the case of *Sacheverell* were wrong. That is stated in the note to the passage in the report which was quoted by the defendant.

THE LORD CHIEF JUSTICE: The difficulty I have, and my learned brother concurs, it may well be said that the matter relied upon by the prosecution as libellous should be set out in the indictment in order to enable the defendant to demur. He might say we admit the facts; we admit the publication; but we deny that it is libellous matter, and we challenge the decision of the Court upon that. He may raise it when this matter is brought before the Court, and say that it is not libellous.

THE SOLICITOR-GENERAL: I submit that he could not do so in this particular case. I am anxious to call your attention to the fact that the words said to be libellous are used in two different senses, and where it consists of obscene language, it is a nuisance and an offence against public morality. One distinction which will strike you is, that in an indictment for an obscene libel, which is a nuisance, he may urge that it is truthfully and plainly uttered; that was the defence made at the Sessions, and it is the observation and arguments that are made now.

THE LORD CHIEF JUSTICE: I do not know that.

THE SOLICITOR-GENERAL: What we say is, that all libellous matter is calculated to injure public morality—and in this particular case it consists of printed words—and that it would be equally obscene if it had consisted in a representation by a picture.

THE LORD CHIEF JUSTICE: So we might have a form of line in the shape of figures instead of words.

THE SOLICITOR-GENERAL: No doubt; but observe what we would come to if the contention were carried out. Could it be said that an indictment for an obscene libel consisting of a picture, the picture itself should be described, and not only the figures themselves, but the particular indecency which the figures suggest, should be fully set out. I am not aware that the question has ever been before the Courts in England, but it has been twice before the Courts

in America. But I argue that this matter should be decided by common sense. Whether the illustration is contrary to public morals, or whether it is described as a printed book, it is sufficient notice to the defendant to give its title, and, whether the indictment charges the whole of the book or not, to call attention to matters which will be proved on the hearing of the charge.

THE LORD CHIEF JUSTICE: What you rely upon was not the particular tendency of the work, but upon particular passages charged as obscene and indecent. Is a man to go through the whole book to ascertain what passages you may mean?

THE SOLICITOR-GENERAL: If the whole book treated of is not indicted, but if the book as a whole is charged, one of two things would happen—either the whole of it would have to appear upon the records, or it would be sufficient to simply call it an obscene book. It cannot be contended that the whole of a book should be so set out—in this case the book we are dealing with consists of 47 pages, but it might be 447, then it would seem to be bringing the administration of that part of the practice of our law to ridicule—to say that the Court must have the whole of the matter which may be complained of, and which might be of the most offensive character, perpetuated upon its records. There are books which one knows to be of the most indecent possible character, and will it be said that all these books should become public, by being placed upon the official records of this court?

THE LORD CHIEF JUSTICE: I remember that in the indictment against Wilkes which I recently had occasion to look up, and which was for publishing and circulating indecent matter, that the notice of the book was not considered enough, but the whole of the indecent lines are fully set out.

THE SOLICITOR-GENERAL: Yes, my lord, but that was before the passing of Fox's Libel Act, and up to that time that might have been the recognized practice. At that time it was held that libel or no libel was the question for the Court to decide. Then it was not a question for the jury—the only question of fact being that of publication. At that time it was intelligible enough that upon the records should appear that which constituted the subject of the offence, for the Court had to say whether it was libellous or not.

THE LORD CHIEF JUSTICE: This course might take away

from the defendant the right to demur. The defendant might say: I admit I published the book, but it is not a libel. You may say that it is a nuisance against public morals. I do not agree to that, and I want to see the matter which is to be brought to the knowledge of the Court for its decision, because I deny that it amounts to a libel.

The SOLICITOR-GENERAL: That is a question which, in the present state of the law, the Court could never determine. It is a question entirely for the jury. That, in my opinion, is one reason why the matter in contest need not be set forth in length upon the indictment. The Courts now have no right to say what is libel, or what is not.

The LORD CHIEF JUSTICE: That is for the prosecution, not for the defendant, to contend. Suppose the defendant were to say, I do not desire to have the verdict of the jury. I take my stand upon the law, and say that upon the face of the thing it is no libel.

The SOLICITOR-GENERAL: I submit to your lordship that the Court could not decide that question; it would be exclusively a question for the jury to decide.

The LORD CHIEF JUSTICE: If once the case comes to the hearing, then it becomes a matter for a jury, and a jury only. But if he takes the preliminary objection, you cannot avoid meeting it.

The SOLICITOR-GENERAL: The answer to that, my lord, would be, if it was a question of demurrer, that it is not a matter for the Court to decide.

The LORD CHIEF JUSTICE: If the defendant says so, and I do not see why he should not, the difficulty would then arise.

The SOLICITOR-GENERAL: At the time I am referring to my lord, the judges had all held, as a matter of law and practice, that it was for the Court and the Legislature combined to declare what was the issue that should go to the jury.

The LORD CHIEF JUSTICE: I do not care who has asserted these opinions: I venture to say, in my humble judgment, that it was a most preposterous and tyrannical law.

The SOLICITOR-GENERAL: This precise question has come before the Courts in America, and they have held that the indecent matter in the case of "*The Commonwealth against Peter Holmes*," which you will find in the 17th

Massachusetts Reports, the defendant was prosecuted for an obscene libel, and was indicted at the Circuit Court charged with circulating the "Memoirs of a Woman of Pleasure," and publishing the same book, the same objection was made there that is made here. It was contended that the obscene matter ought to have been set out in the indictment. Chief Justice Parker says that where the charge is for publishing an obscene book, it never can be required that the whole of the obscene book or picture should be displayed upon the records of the Court. This would be to require that the public records should give prominence and notoriety to the obscene libels in order to punish the defendant. This was the state of the law up to the time that the prosecution of the Queen v. O'Connell reversed it.

MR. JUSTICE MELLOR : Are you aware of any case in England where there is a conviction for libel contained in any book or newspaper in which the libel has not been fully set out?

THE SOLICITOR-GENERAL : This book was indicted at Bristol, but I am not aware that any book has been indicted in this particular form till then. That is very recent, and that it has been indicted in this form is certain, and the person who drew up this indictment drew it up from that precedent. Both here and at the Old Bailey that has been done.

THE LORD CHIEF JUSTICE : What is the other case to which you refer? You say there is another case?

THE SOLICITOR-GENERAL : The first is the Commonwealth *against* Sharples and Others, and the case reported in vol. 2 of Sargerton and Rawle in the Pennsylvania Court. There the indictment was for exhibiting an indecent picture, and the particular objection taken was that it was not obscene. That was the very form of the objection which your lordship put to me just now. It was said by the defendant that it must set out distinctly, so that he might prepare his defence, and that the Court might know precisely the charge it had to try. Then follows the argument upon that subject. Chief Justice Tilman delivers the judgment of the Court. The second reason urged, he says, "is that the picture is not sufficiently described. The indictment describes the position of the figures; if necessary the jury will judge from the description whether it is sufficient or not. I am of opinion that it is sufficient." That was stated when the Court was sitting *in banco*. Mr. Justice Yates

and Mr. Justice Brackenbridge were of a similar opinion. These are the only cases which I can find bearing upon the point. There is no authority in our own courts where a precedent of the same kind is to be found. In *Dearsley*, page 64, *Queen v. Dugdale*, is reported, and that is the only English case that bears in any way on this particular point of law. In that case the defendant was indicted for having these works in his possession for the purpose of distributing, and in his business libels had been printed for the purposes of circulation, but the parts held by the whole Court to be libels had not been set out on the indictment, the only allegation being that, in printing, he had done so with the intention of publishing obscene libels.

The LORD CHIEF JUSTICE: The exception taken there was that the libels were not set out.

The SOLICITOR-GENERAL: I cannot find that that point appears to have been suggested.

The LORD CHIEF JUSTICE: Then it is not a precedent.

The SOLICITOR-GENERAL: All that one can say was that it was a discussion upon a point of error, and that it was before Lord Campbell that the case was originally tried at the Middlesex Sessions, and brought here upon a writ of error. The case was argued before Lords Campbell, Cole, and Crompton, and they gave judgment upon the question, whether this nuisance disclosed an offence in point of law.

The LORD CHIEF JUSTICE: Well?

The SOLICITOR-GENERAL: That appears to be the objection urged, and coming as the case did before such a Court, it seems strange that the objection raised in this case was not urged by the counsel that were engaged in it.

The LORD CHIEF JUSTICE: On a point of error you can only deal with the objection raised.

The SOLICITOR-GENERAL: And I say, my lord, that it is too late to raise any objection now, for I take it that the defendants are in the same position now as they were before the trial, for it would have been too late to have raised it even then. It should have been raised by demurrer. I say it was not competent for him to have raised the question as to demurrer at the beginning of the trial, though if the contention was good then, it is good now. Issue was joined, and the pleadings proceeded, and even if he had applied in time to quash the indictment, the universal usage is that the Court will not quash an indictment for defects, but requires that that shall be taken by demurrer.

The LORD CHIEF JUSTICE : It may be taken on a motion of arrest of judgment.

The SOLICITOR-GENERAL : But if the Court had held that the intent was proved, and if it was an averment improperly made, your lordship must have directed the jury to find the defendants guilty, unless the allegation which was improperly made, was protested against at the trial. It is upon the Queen *v.* Robert Goldsmith, where the indictment charged overt acts and false pretence, without setting out the false pretence, that the motion in arrest of judgment was too late. You cannot make a motion of that kind on trial which ought to have been taken on demurrer. It is an indecent book, and the jury have found it to be so. If this is so, then the case of the Queen *v.* Dugdale becomes a distinct authority, especially as the specific objection was not in the higher court. If there was error upon the face of it, the Court could then have taken notice of it, although I think, however, as I have said, that coming before such a Court as that, the question would have been raised. It would produce great scandal to set out the words in an indictment, and would be putting upon public record such obscene books as those that are sold in Holywell Street, and yet that must be done if the objection is valid.

The LORD CHIEF JUSTICE : Where do you find authority for saying that? The law applicable to offences by libel seems to act in this way.

Mr. Justice MELLOR : I cannot find any reference to setting out words. It was a question whether it was an offence to have such works for publication, and I cannot find anything in the case upon the point you are arguing.

The SOLICITOR-GENERAL : In the case of Dugdale, the point was not decided.

The LORD CHIEF JUSTICE : Nor does it appear to be present in the minds of the counsel.

The SOLICITOR-GENERAL : It was argued by able counsel, and the point is not raised. It was raised in the American courts.

The LORD CHIEF JUSTICE : Whose decisions are always to be highly respected by us.

Mr. Justice MELLOR : The offence was that it was a libel affecting the public, and not individuals.

The SOLICITOR-GENERAL : Just so, and that is the very question that is raised here, and the Courts both gave judgment that the books and picture were against public morality.

It was held that it was not necessary that these should be set out on the face of the indictment or the records of the court.

MR. MEAD: I should like to add a word or two to what has been said by the Solicitor-General. I contend that this is not a libel in the technical sense of the word; and if it is so at all, it is so only in common parlance. If your lordship takes a dictionary, you will find that two meanings are given. The first, its corrupt sense, as something in the nature of a defamatory statement; secondly, it is described as a small book. Its primary meaning is taken from the Latin word *libellus*, and in that sense it is taken in the Ecclesiastical Courts of Scotland. It is used here in its primary sense, and it is not necessary, in framing an indictment, to use the word libel at all; and it is so understood by Archibald.

THE LORD CHIEF JUSTICE: They are charged with selling a libel.

MR. MEAD: It is used here merely in its primary sense.

THE LORD CHIEF JUSTICE: What do you mean by its primary sense?

MR. MEAD: That it is merely a small book.

THE LORD CHIEF JUSTICE: That is not the sense of libel in English law. It may be a very big book. The bigger the book, the bigger the libel. (Laughter.)

MR. MEAD: It comes from the word *libellus*.

THE LORD CHIEF JUSTICE: We all know that; but in English law a libel is not a little book.

MR. MEAD: In Archibald the word "published" is not used, nor is the word "libel."

THE LORD CHIEF JUSTICE: Here it is used, and in our Courts, and has always been treated so.

MR. MEAD: I contend that it is not a libel; and in the case of *The King against Sedley*, it is so put expressly, and the argument that it is a libel is not applicable to the present case. In the 14th and 15th Vic., cap. 100, sec. 29, certain principles are made applicable, as in common law misdemeanours; and one of the words is that the book should be obscene, and I contend that the word libel need not be used.

MR. BRADLAUGH: I regret that the learned Solicitor-General thought right to represent me as having omitted to refer your lordships to the case of *Christopher Layer*,

because the decision was hostile to me. I thought that I have stated precisely where it could be found, and that it was a case of high treason.

Mr. JUSTICE MELLOR : You referred to it in general terms.

Mr. BRADLAUGH : I am afraid that the Solicitor-General and myself must have different reports both of the case of Layer and that of Sacheverell, for it is impossible to imagine that any one in his high position would misrepresent, and it is almost as difficult to comprehend how a gentleman of his ability can have misunderstood. The Solicitor-General stated that the decisions of the judges upon which I relied for a favourable answer to my motion had all been overruled by the House of Lords. This is utterly the reverse of the case. The trial of Sacheverell was an impeachment by Parliament, and the decision of the Lords in no sense over-ruled or even questioned the dicta of the judges who were all agreed "that by the laws of England and constant practice in all prosecutions by indictment or information for crimes or misdemeanors in writing or speaking, the particular words supposed to be criminal ought to be specified in the indictment or information;" after hearing the judges the House of Lords resolved that the practice in indictments did not apply to parliamentary procedure. The words are, 15 Howell, p. 467: "It is resolved by the Lords, spiritual and temporal, in Parliament assembled, that by the law and usage of Parliament in prosecutions by impeachments for high crimes and misdemeanours, by writing or speaking, the particular words supposed to be criminal are not necessary to be expressly specified in such impeachment." The words of the House of Lords' decision are expressly limited to their own parliamentary practice, and do not in the most remote degree overrule the solemn opinions of the judges; indeed the Lord Chancellor told Sacheverell, p. 473, "the answer of the judges which related only to the course used in indictments and information does not in the least affect the case." In the case, too, of Layer, my reading of it is very different from that of the Solicitor-General. I have read the case with special care, and, with the exception of the judgment of Mr. Justice Eyre, I cannot find a single word to justify the view of the case given by the learned Solicitor-General; so far from all the judges agreeing to reverse the opinions in Sacheverell's case, Mr. Justice Powys shows that there was a clear distinguishment in the case of treason. No doubt Justice

Eyre is strong against me, but Laver was tried when party feeling ran high as to the rights of the House of Hanover as against the Stuarts, and he is only one judge against all the others. I quite admit that the note in Sacheverell's case is as represented by the Solicitor-General, but the note is utterly incorrect, as notes very often are, if made by those who have no special responsibility. The difficulty in regard to the American cases is that I have not had the advantage of reading them, and can hardly judge whether the Solicitor-General has fairly gathered their effect. I ask your lordships to dismiss from your minds one of the American cases that has been quoted, because it refers to a print, and not to a book. I do not and will not contend that the same argument should be applied to paintings or prints as I seek to apply here. I contend that the decision and practice of the court is specific as to the words spoken or written being set out. I ask your lordships to dismiss from your minds one of the two cases which have been referred to. In the first case my difficulty is that, according to the learned Solicitor-General—and I have no doubt that he has given the fullest information—there are two counts—the first count for publishing prints and the second count for publishing books. Well, without examination of the case, I cannot tell how much of the decision related to the print, how much to the book, or whether it may be correctly apprehended by the learned Solicitor-General, or with what correctness he has represented it, or whether he may be as mistaken in this case as I have found he has been mistaken in his views on the Sacheverell case. With reference to the Queen *against* Dugdale, allow me to say that it has nothing whatever to do with this case. There one count was objected to that it was no offence to have obscene works in defendant's possession with intent to utter. The errors specially assigned do not raise the point I now make; surely it is not because the learned counsel for the defendant in that case might have overlooked the point, that I am to be damned by some decision which was not given. This is really putting the case a little too much against me. I assume the learned Solicitor-General only brought in the case of the Queen *against* Dugdale because the other English decisions were so much in my favour that it was necessary to do something. Again, the learned Solicitor-General suggests that my motion is too late. Now, I will quote to you the 14th and 15th Victoria, chap. 100

sec. 25, which says that every objection by demurrer to quash the indictment shall be taken before the jury shall be sworn. Then the learned Solicitor-General comes to the case of the Queen *v.* Goldsmith; and here again I was utterly surprised that my apprehension of the case should have been so entirely different from that of the learned Solicitor-General. I rely for making out the right to ask you to quash the conviction upon the decision of Lord Chief Justice Bovill in that case, who, in deciding against the application, says: "If the judge thought the objection clearly a good one he might have quashed the indictment, and that would have left the prisoner open to another indictment. He was, however, not bound to quash the indictment, bad as it might be; and further, he might think the point a doubtful one, and, if doubtful, he might leave the party to his writ of error or reserve the point. In this case the Deputy Recorder did not quash the indictment, but reserved the point not as to whether he ought to quash, but as to whether the count was a good one or not." I submit, my lord, that the Queen *v.* Goldsmith is distinctly in my favour, and I seek to have this point put before you as clearly as possible. I avow that, probably, though from my utter unacquaintance with the exigencies of special pleading, I utterly failed to understand how Fox's Act could be any impediment to me, and the 33rd George III., chapter 60, does not deprive me of any rights in this Court to ask whether there is, in law, any libel. I understand that the express wording of the statute is: "it shall be lawful for the defendant to move in arrest of judgment:" and that there is no sort of restriction put upon the defendant. It is an additional privilege or right given to the defendants by statute, and not in any sort of fashion a restriction of any rights they may have had before. I submit, my lord, that we are in this position. Instead of putting your lordships to a long trial and a *nisi prius* argument, as has been the case, if we had got the reports in the record, we might have demurred. There was a doubt in our minds as to whether there was any offence in law. If we had had the material on the face of the indictment, we should have taken the easiest and quickest steps to settle the matter. In no sense have I delayed the procedure, for the very moment I got the writ of *certiorari* I proceeded at once to give notice and get a day named. The practical effect of this would be that the Solicitor-General says the Crown may shut out of the record

what is material for the Court to know, for I will not condescend to discuss whether your lordships would have the right on a demurrer to say whether the indictment raised the offence at all or not. I should not have thought that a gentleman with so long an experience at the bar would have been capable of maintaining a proposition so outrageous. Surely the Court is the supreme judge as to whether the record puts any difficulty in the way of the defence ; and if the difficulty which he has raised with regard to the demurrer be well-founded, my difficulty would be this, that in demurring to the indictment without knowing the point, I should be laying myself open to a wild fight in the dark.

The LORD CHIEF JUSTICE : No, that was not it. The Solicitor-General suggests that you might have demurred on this point—on the ground that the indictment did not set out the words.

Mr. BRADLAUGH : I suppose I still have a right to move for the quashing of the indictment on the same ground ?

The LORD CHIEF JUSTICE : No, no.

Mr. BRADLAUGH : Well, in that alternative I shall move for an arrest of judgment. If I am not right in my motion to quash the indictment I am right in a motion for an arrest of judgment ; if the argument on the one ground fails, that on the other must go. I do not know that I need trouble your lordship with the sort of appeal made to the feelings of the Court as to whether or not good sense required that the words of the indictment should be set out. I submit that it is admitted to be a distinct matter of law and practice that we are entitled to have the offence with which we are charged clearly brought to our knowledge. Really, my lord, until entering this Court we did not know—and the language of the learned counsel before the magistrates aggravated the inconvenience—whether it was that the advocacy of checks was unlawful, or whether the language of the advocacy was obscene. And we were left in that difficulty until we came into the Court here, and I submit that your lordships will not put the defendants in that position. I submit, further, that when the learned Solicitor-General pleads that on some other indictment, in some other place of which I know nothing, and of which I can have no knowledge, the same blunder was made, that your lordships will not entertain the argument for a moment to cover a similar blunder here. In Folkard, where the form of indictment is given, it states clearly that the passages are to be set out. I am

told that in Archbold you will find an indictment for publishing a print, in which the exact reproduction of the print is not set out. I do not pretend that in the case of a picture my argument would hold good, but I do maintain that the words complained of must be specifically set out, so that the defendant may see what is the charge he has to meet. It is clearly put on page 803. I submit that, bearing in mind the real verdict of the jury, this is a case in which your lordships would be disposed to give me and my co-defendant the fullest advantage of every objection that could be urged by us, and which would keep us from the additional stigma that would otherwise be cast upon us.

THE LORD CHIEF JUSTICE: No more than in any other case. If you can take objection to the procedure upon which the verdict has been arrived at, you are entitled to take it, but as far as I am concerned there is no difference between one case and another.

MR. BRADLAUGH: I submit that the learned Solicitor-General has said nothing which would induce your lordships to say that the point has not been decided in my favour by the whole of the authorities I have quoted.

MRS. BESANT: I do not think I need trouble your lordships with more than a word after the remarks of my co-defendant. The learned Solicitor-General seemed to be under some difficulty in regard to the English cases, for he was obliged to quote American. He was unable, apparently, to find a single one which supported his contention in the practice of our own courts to set against the number in our favour, and he was therefore obliged to go to the practice of the courts in foreign countries. I argue, on the contrary, that we are not bound by the decisions of the courts in any other country, however friendly that country may be to us.

MR. JUSTICE MELLOR: We do not say that we are bound by such cases, but we say that we pay great respect to them, because in America they administer to a large extent the same law.

MR. BRADLAUGH: I have to state that I have studied the law of Massachusetts, and that the common law of Massachusetts is not on all fours with the common law of England.

MRS. BESANT: It is evident that the case of the learned Solicitor-General is so extremely weak that he could not find a single English case to help his contention, but is

obliged to fall back upon cases cited from a foreign country. As to spoiling the records of the Court, if the learned Solicitor-General will look through them, he will find that the invariable practice of the Court has been to set out the libels. I do not know why a sudden change should be made simply to injure the present defendants. In the case of the *Queen v. Curll* you will find that the libel was set out, and that it is the invariable practice right through. The effect on us of the contrary is most unfair. We thought from the indictment that the whole book was attacked, and we thought we had covered everything, and it was not until after the verdict of the jury was given that we discovered the crime alleged. Had we known that there was an objection to the whole theory of preventive checks we should have acted differently; but we considered, I say, that we had covered the whole of the book, and we were not aware that ~~one~~ special point upon which we had no information was the point upon which a verdict was to be given by the jury.

THE LORD CHIEF JUSTICE: I am clearly of opinion that there should be no new trial. In this case the question was eminently one for the decision of a jury. There can be no better tribunal than twelve men taken, as the Solicitor-General, I thought, happily expressed it, from an average of the intelligence of society, or one better competent to dispose of a question of this kind, namely, whether this publication was calculated to be subversive of public morals or not; and lest any feelings of sentiment, prejudice, or passion might interfere with the deliberate judgment of the jury, I thought it right—especially after the powerful address of the learned Solicitor-General in reply, when he appeared to me to address himself to the sentiment as well as to the judgment of the jury—I thought it ought to bring the case finally before them in all the various aspects in which it has been presented for discussion, and without the slightest desire in one way or the other to bias or influence the judgment of the jury, who, I thought, ought to proceed from their own spontaneous sense of what was right. All parties, at that time, seemed to be agreed that the question was one for a jury, and exclusively for a jury, and I left it to the jury. I presented to them the case from all the different points of view, and, finally, repeated to them what had been said on one side and on the other, and the various views of the case

which had been advocated by the prosecution and by the defendants. The jury were a most patient and attentive jury, and listened in uninterrupted attention and care to all that was said. They took time to deliberate, and they pronounced a verdict that this book is a book which ought not to have been published, and that it is a book calculated to deprave public morals. Now, that being so, there is nothing brought before us that, in my opinion, turns on the question of fact as to whether this book was a proper or improper one, or that calls for a review of the judgment and decision of the jury. But it is said that it is open for the defendants to contend that the verdict of the jury was not a verdict of guilty. Now I think that the contention is wrong. The jury were evidently in doubt as to the effect of the facts upon which their minds were agreed. They were agreed that the tendency and effect of the book was to corrupt public morals; but, on the other hand, they were satisfied that, under the influence of a strong belief that the evils of over-population were so great that it was desirable to have recourse to means of preventive checks, and that, impelled by this opinion and desire, the defendants had published this work, but not with the intention to corrupt the morals of young or old. The jury specially found upon these facts, and it was my duty to tell the jury and I believe so now, that where persons publish a word which is contrary to the morals of mankind, and they do that with their eyes open, it is not for them afterwards to say, "I did that either with the view of doing something in itself so good as to warrant the infraction of the law," or to say, "I did it in ignorance of the law." Nobody can allege either of these two things as an excuse for a breach of the law; no one can put himself above the law, no one can refuse obedience to the law. I think, therefore, that upon the facts found by the jury I was right to tell the jury that it amounted to a verdict of guilty. In that direction they acquiesced, and returned a verdict of guilty, evidently taking the view that I had done. The foreman turned round and took the opinion of the jury, and they acquiesced. I think, therefore, there can be no question as to a new trial, either upon the ground that the verdict was in the first instance a special one, or that the verdict was not in accordance with the facts which were before them. It is said that although there could be no new trial, as the verdict of the jury was conclusive on the facts, nevertheless the

indictment cannot be sustained and that we ought now to arrest the judgment upon the verdict by reason of the legal insufficiency of the indictment. Well, that is founded upon this proposition, that in an indictment for libel where the libellous matter consists of words, the words must be set out in order, so that the defendant may know what it is that he is called upon to answer, and that if he chooses to take the legal objections, which he may do on demurrer, on the sufficiency of the indictment, he may have the opportunity of doing so. We agree with that proposition. It is said that it would be highly inconvenient that obscene matters should be set out upon the records of the court, and that the same argument and the same rule would apply to the case of an indecent print which applied to the case of indecent words, and that it would be impossible, or at all events in the highest degree objectionable, to exhibit an indecent print upon an indictment which would afterwards form part of the records of this court. We have had pressed upon us two decisions of the American courts in banco, which we treat with the utmost respect. These decisions are not so conclusive upon us as if they were decisions of courts having equal jurisdiction in this country, but we look to the decisions of the American courts with very great respect, and take advantage of them in the solution of questions of law. Putting these decisions on one side, the question of convenience presses upon us strongly. I agree that where particular passages in the work, as contradistinguished from the work itself, are made the subject-matter of an indictment, it would be highly expedient that the attention of those against whom the publication of such matters is made the subject-matter of an indictment and a prosecution, should have the opportunity of knowing what it is that they are to direct their defence upon, and what the attention of the jury will be afterwards directed to. I admit that; but on the other hand if not particular portions of the work, but the work itself in its entirety and as a whole is made the subject-matter of a prosecution, one cannot but see that it would lead to the greatest inconvenience to have the whole of the work, set out from beginning to end. We were told the other day that a prosecution has recently been instituted, or was about to be instituted, in respect of the publication of the "Memoirs of the Comte de Grammont," on the ground that that was an indecent and obscene publication, because it

describes with a great deal of particularity the licentious habits of the court of Charles II. While I don't express any opinion with reference to 'a prosecution founded upon the publication of a work which has existed for a great many years, and which has gone through many editions and been translated into several languages, I merely mention that as an instance of what would be the monstrous inconvenience of setting out *in extenso* the whole of the publication, which might consist of two or three volumes. With regard to many other works which could be mentioned which are more or less of an indecent and indelicate character, and more or less inconsistent with good morals, and which may therefore be made the subject matter of an indictment, where the objection to the work is not that it contains particular passages which are objectionable, but that it is objectionable *in toto*, it would lead to a degree of inconvenience that we cannot help taking notice of. At the same time there is a good deal to be said on both sides, but I do not think it was competent that I could proceed upon that to quash the indictment. The Solicitor-General said the defendants should have applied earlier if they desired to have the indictment quashed. For that reason it appears to me that I went too far, and that I was not called upon to give leave to move upon it. I do not think I was competent to do it. I do not think the defendants could have an advantage of that sort. With reference to this objection the difficulty I feel is that that objection must have been taken by demurrer. If the omission be set out in the indictment, the specific matter upon which the offence is alleged to rest—if that be the objection, and it be a valid one, it is an objection that must have been taken by demurrer, and, therefore, not without some sense of the exigencies of the case as put in the arguments used by the defendants. I cannot help thinking that, upon the balance of convenience of the authorities we shall do more wisely to say that the judgment pronounced upon this indictment ought not to be set aside by making the motion absolute to arrest the judgment; but if there be any valid foundation for the contention the defendants have raised upon the indictment it should be taken by demurrer. As far as we are concerned, it will not be necessary to act upon it, the more so because the balance of convenience or inconvenience, looking to the particular nature of this form of libel—it is not specifically within the law of libel, but in

saying that it does not come within the category of a libel, it, to a certain extent, arises out of the law of libel generally, as it is *commune documentum*—which renders it not a matter for the Crown on the one hand or a particular individual on the other, but a matter complaint as to which arises as to its being subversive of the public morals and therefore a matter of public nuisance. Therefore, I cannot feel that the authorities which have been cited for the purpose of showing that in an indictment for libel the words must be specially set forth, applies to this case. There are the inconveniences under which the defendant may labour, so that he may be put to the inconvenience and expense of a further trial, when judgment should be given in his favour at once. You will find that advantage is not in this form of indictment, and I think it is an advantage of which it is very hard that the defendants should be deprived. There is that inconvenience on the one side. We shall, therefore, shelter ourselves under the decisions of the American courts, but we leave this matter to be carefully gone into by the Court of Error. I do not think that there should be any new trial nor any rule for an arrest of judgment.

MR. JUSTICE MELLOR: I am of the same opinion; I quite think there is no ground urged for a new trial, and that some of the points raised for a new trial are more properly points for an arrest of judgment. One point was raised by Mrs. Besant, which had considerable *primâ facie* ingenuity, that on the question as to the intention of the parties to publish this book, the jury had found there was no corrupt intention, and, therefore, the jury had not found on an essential part of the indictment. I have already expressed the opinion in regard to that, that the jury have found that the book was calculated to corrupt the morals, and that was not denied, although the corrupt intention was denied. It appears to me that, upon the finding of the jury, and upon the facts of the case, there could be no objection to the verdict upon that ground. I say if a person publishes a book calculated to deprave, although his own intention may not be malicious, wicked, or immoral, still the very fact of the intention to publish a book which is calculated, and which the jury have found is calculated, to produce great damage to the morals of the community, makes it, therefore, a book which comes within the rule which applies to this prosecution in so far as the public is concerned; and it appears to me that no objection can be taken on that

ground. I also think the course taken with regard to the finding of the jury was rightly taken by the Lord Chief Justice. If he had said just before the conclusion of his summing-up: "If you find that so and so, if they did not do so in meaning, yet did so in substance, you must find the defendants guilty," there could be no possible form of objection urged to it. But it is said that because the jury has found what Mrs. Besant calls a special verdict as to the essential fact, coupled with the expression that they were not guilty of the offence stated in the indictment, the Lord Chief Justice ought to have directed the jury to return a verdict of not guilty. The Lord Chief Justice took the right course. The jury were asked if they understood that they were finding a verdict of guilty and they said they did. You cannot say, therefore, that anything arises by way of error or arrest of judgment; with regard to the other point, there is nothing which renders it undesirable that an objection of this character should be taken by demurrer upon the indictment. It is a point of demurrer. If it is taken on demurrer, judgment is at once given for the defendant if the demurrer succeeds. It was not taken upon demurrer, which I think would have been the wisest, best, and easiest course when dealing with this case to see that it contained the offence. There are the gravest doubts whether the point would have been successful on demurrer, but the jury have now interpreted and applied the general description to the book in the indictment as obscene. But if it be an essential and most material part of the indictment to set forth the terms in which the libel was published, that is still a question that may be taken on error, but it cannot be made available for arrest of judgment. We do not arrest judgment unless we are satisfied that there has been some error. My contention is that there has been none; whether that be so or not I am clear now that the only remedy which is open to the defendants is by bringing error on the indictment, so as to obtain the opinion of the highest tribunal to see whether it is so essential a part of the procedure that it vitiates utterly and entirely the whole proceedings. Therefore I can see no ground for either setting aside the verdict or for arrest of judgment.

Mr. BRADLAUGH: Might I ask your lordship to stay execution until the error is determined? There are cases of misdemeanour in which that has been done.

Here the Court adjourned for luncheon. On re-assembling,

The SOLICITOR-GENERAL said : I now pray the judgment of the Court, the record being now in Court. My lord, I have two affidavits, and I have to say that no notice of them has been given to the defendants as the persons who have made the affidavits could only be found last night, and consequently they have only been made this morning.

The LORD CHIEF JUSTICE : Have you any affidavits ?

Mr. BRADLAUGH : None at all, my lord.

Master Cockburn then read the following affidavit :—

IN THE HIGH COURT OF JUSTICE.

QUEENS BENCH DIVISION.

THE QUEEN *against* CHARLES BRADLAUGH AND ANNIE BESANT.

JOHN RIVETT makes oath and saith as follows :—

1. I reside at Number 15, Devonshire Street, Bishopsgate, in the City of London, and am a news-agent.
2. In the beginning of the month of May, 1877 (the exact date I do not recollect), I saw the two above-named defendants in their shop at Number 28, Stonecutter Street, in the City of London.
3. I then asked the defendant, Charles Bradlaugh, for some copies of the book called "Fruits of Philosophy," when he told me that they could not sell any more copies there, as copies had been stopped going through the post.
4. The said Charles Bradlaugh then gave me a card, which had printed thereon the name of Mr. Ramsey, Number 10, Shacklewell Street, Bethnal Green Road, but which said card I have since destroyed.
5. The said Charles Bradlaugh told me at the time he handed to me the said card that I could obtain thousands of copies of the said book called "Fruits of Philosophy" at the address indicated on the said card.
6. I immediately went to the said address, and purchased several copies of the said book, which were

similar to that which is now shown to me, and marked "A."

7. At the end of the said month of May (the exact date I do not recollect), the person who sold me the said copies of the said book at the said Number 10, Shacklewell Street aforesaid, and who, to the best of my belief, is W. J. Ramsey, and manager in the employment of the said defendants, Charles Bradlaugh and Annie Besant, told me he could in future supply me with copies of the said book at Number 9 in Shacklewell Street aforesaid.
8. Since the day I received the said card I have from time to time on several occasions—that is to say, twenty or thirty times—been to the said 9 and 10, Shacklewell Street, and purchased large quantities of copies of the said book.
9. On Saturday morning last, the 23rd day of June, 1877, I went to the said house, Number 9, Shacklewell Street, and purchased of the said W. J. Ramsey one dozen copies of the said book called "Fruits of Philosophy," one copy of which is the copy now shown to me and marked "A."
10. On the same day my partner, Frederick Fennell, obtained, as he has informed me, and as I verily believe, two dozen copies of the said book at the same address.
11. I believe the said Mr. W. J. Ramsey referred to in the said book now shown to me, and described therein as the manager to the Freethought Publishing Company, to be the person who sold to me the said copies of the said book.

Sworn at my Office, No. 10, Basing-
hall Street, in the City of London, } JOHN RIVETT.
this 27th day of June, 1877.

Before me,

M. DOWNING,

A Commissioner to administer oaths in the
Supreme Court of Judicature.

IN THE HIGH COURT OF JUSTICE,
QUEEN'S BENCH DIVISION.

THE QUEEN *against* CHARLES BRADLAUGH AND ANNIE
 BESANT.

DANIEL THOMAS LYSAGHT, makes oath and saith as follows :—

1. I am a reporter and shorthand writer, residing at 66, Doddington Grove, Kennington Park.
2. On Sunday last, the 24th day of June, A.D. 1877, I was present at a meeting held at the Hall of Science, Old Street.
3. The meeting was convened for the purpose of discussing the Population Question.
4. Both the defendants were present on the platform, and addressed the meeting. The defendant, Annie Besant, acted as President.
5. Numerous copies of the book, "The Fruits of Philosophy," the subject of this indictment, were sold in the room for the price of sixpence each, many of the purchasers being young persons of both sexes.
6. There were about 600 persons present at the meeting, and there was a crowd outside of those who were unable to obtain admission. The said book was freely sold to many of the said persons outside.
7. I purchased the book now shown to me, and marked "A," at the said meeting.
8. The report in the newspaper, the *Morning Advertiser*, now shown to me, and marked "B," was written by me, and is a correct report of the said meeting.

Sworn at the Westminster Hall, in the County of Middlesex, the 28th day of June, 1877. } DANIEL THOMAS LYSAGHT.

Before me,

W. J. CLEAVE,

A Commissioner, &c.

Filed on the part of the Prosecution.

A newspaper report was attached to Lysaght's affidavit, and the Master asked if he should read it.

The LORD CHIEF JUSTICE : The paper has been sent to me, and, I must say, that a most unjustifiable use of my name has been made—most unwarranted.

Mr. BRADLAUGH : Allow me to say that the report in the *Morning Advertiser* is totally incorrect.

The LORD CHIEF JUSTICE : All I know is, that in my summing-up, I endeavoured, and I feel satisfied that I did, hold the scales of justice evenly.

Mr. BRADLAUGH : We never said what is imputed to us.

The LORD CHIEF JUSTICE : You say that I summed up in your favour. I did nothing of the kind.

Mr. BRADLAUGH : The report is simply stupidly incorrect from beginning to end.

Mrs. BESANT : I have not seen the report, and if it is to be used against me, I must ask that it be read. I spoke with the most extreme respect of your lordship.

The LORD CHIEF JUSTICE : I mean that to represent me as stating views different from the jury is wholly incorrect. All that I endeavoured to do, as I said before, was to take care that the verdict should not be given in a storm, but that it should be the result of mature deliberation of the case in all its bearings. That is all I endeavoured to do, and I am quite sure it is all I did.

Mrs. BESANT : All I said in my speech was that the summing-up was absolutely impartial. And I rejoiced that there had gone forth from the Bench an endorsement of Malthusianism which it had never before received.

Mr. BRADLAUGH : I have seen the report, which is ridiculously inaccurate. If anything is to turn upon it, I must ask to be allowed to answer it.

The LORD CHIEF JUSTICE : The part of the report which is most material is the part which represents you and Mrs. Besant as saying that you would go on with the publication, let what would happen.

The SOLICITOR-GENERAL : That is the only reason why I use the report.

Mrs. BESANT : I ask as a matter of justice that the report should be read.

The CLERK here read the paragraph in question from the *Morning Advertiser*.

Mrs. BESANT : Well, my lord, I have one or two points to

put to your lordship, as to the accuracy of the report. Am I permitted to say anything?

The LORD CHIEF JUSTICE : Oh, certainly.

Mrs. BESANT : Only in answer to the report.

The LORD CHIEF JUSTICE : Strictly speaking, it should be by affidavit.

The SOLICITOR-GENERAL . I have no objection.

Mrs. BESANT : I must remark, my lord, that the report is utterly and grossly inaccurate. The meeting was not called for the discussion of the Population Question, and no discussion of any kind took place. The value of the oath of the reporter, as a matter of accuracy, may be judged by the fact that he stated that there were 600 persons, whereas 1418 paid for admission, as shown by the books. I do not put that as a matter of importance, but merely to show that he is not a man whose judgment should be brought here as reliable on a matter of fact. Then he says that numerous copies of the book were sold in the hall. If that is urged against us, the sale must be proved, for neither I nor my co-defendant have anything to do with selling on Sunday night. That we have the hall for lecturing cannot make us responsible criminally for what occurs there. When I said that the jury did not all assent to the direction of the judge, I alluded to a letter that I had received, in which it was stated that he did not assent to the verdict, and that it was by the action of the foreman, and not of the jury, that the verdict of guilty was given.

The LORD CHIEF JUSTICE : He should have objected at the time.

Mrs. BESANT : No doubt, my lord, he ought to have had the manliness to object there and then. It was no good to talk to his friend about it afterwards. I mentioned it in the hall as a moral justification at the time, and I did not presume to mention it here until now, knowing that it had no legal value. The report says that I said that one of the most highly-trained brains in England had declared in favour of our views. It is true that I spoke of one of the "most highly-trained brains in England"; and if that be any discourtesy to the Court, I can only apologise for it. (Much laughter.) I said what I believed, my lord, in simple honesty, but it is what I should not have had the impertinence to say in this presence if it had not been alluded to. I did not say that that brain had declared in favour of the whole of our views,

but I did say that it declared in favour of Malthusianism, as a law which could not be disputed.

The LORD CHIEF JUSTICE : You must take it with reference to the only proposition I had in my mind, namely that the tendency of population is to increase in a greater ratio than the production of food, and that that was a law which could not be disputed.

Mrs. BESANT : Yes ; the law which is ordinarily spoken of as the law of Malthus ; but unless people are trained in these works they do not know what that refers to. I said that from the Bench we had had a declaration in favour of the law of Malthus, and this, whether we went to gaol or not, was a sufficient recompense for having gone before a jury.

The LORD CHIEF JUSTICE : You would have done much better if you had left such propositions alone.

Mrs. BESANT : I was only repeating what has been said by the whole press of the country, that the trial had spread the principles for which we pleaded. With regard to the question of stopping the circulation, I can only say that if the law desires to stop the circulation of the book it must be stopped legally, and no amount of prejudice that is tried to be raised can be allowed to govern. As to the man who swears that Mr. Bradlaugh gave him a card with Mr. Ramsey's address on it and sent him there, I can only say that I am one of the two partners of the "Freethought Publishing Company," and that no card has been printed by us with the name and address of Mr. Ramsey upon it. Such a card has never been printed, and it seems a pity to bring forward an affidavit sworn to by a man whose statement is so utterly false from beginning to end. We stopped the sale at Stonecutter Street for a reason of our own, but never gave any kind of card or direction as here stated.

The LORD CHIEF JUSTICE : The man says he was sent from Stonecutter Street to another address.

Mrs. BESANT : He says so, and he swears falsely.

The LORD CHIEF JUSTICE : We must have this upon affidavit.

Mr. BRADLAUGH : There is no doubt, and no pretence on our part to the contrary, my lord, that we have circulated, and are continuing to circulate, the book. The witness, for some reason or other, has been extremely stupid ; but whether we gave a card or not is a matter of no importance, although, as a matter of fact, we did nothing of

the kind. There is no doubt that up to this time we have circulated the book.

The LORD CHIEF JUSTICE : I gave you fair warning that you ran a risk in so doing.

Mr. BRADLAUGH : Your lordship did. I do not wish it to be thought that I say this out of bravado, but simply as a matter of fact, so that we should not represent anything incorrectly.

Mrs. BESANT : It is not well to put too much stress upon two affidavits so utterly inaccurate on these small points.

The LORD CHIEF JUSTICE : The statement in that affidavit which is not denied is, that since the verdict of the jury the circulation of the book is still going on.

Mrs. BESANT : That is so, my lord.

Mr. BRADLAUGH : While I have no personal knowledge of it, I have no doubt that that is so.

The LORD CHIEF JUSTICE : The matter assumes, then, a very serious aspect, because I gather from that fact, as well as from the language used at the meeting, taking it with the qualification that Mrs. Besant has put upon it, that it does imply a determination, notwithstanding the verdict of the jury that this book is unfit for publication, that you will persist in publishing it. The case, therefore, assumes a very serious aspect indeed.

Mr. BRADLAUGH : My lord, I do not wish, in any way, to take up the time of the Court unfairly. I have nothing whatever to say, except that the ultimate decision of the Court had not then been given ; we thought we had not got that ultimate decision of the Court.

The LORD CHIEF JUSTICE : The ultimate decision of the Court has now been given, and the question is, what is to be the future course of your conduct ? The jury have acquitted you of any intention to deliberately violate the law ; and that, although you did publish this book, which was a book that ought not to have been published, you were not conscious of the effect it might have, and had no intention to violate the law. That would induce the Court, if it saw a ready submission on your part, to deal with the case in a very lenient way. The jury having found that it was a violation of the law, but with a good motive or through ignorance, the Court, in awarding punishment, upon such a state of things, would, of course, be disposed to take a most indulgent view of the matter. But if the law has been openly set at defiance, the matter assumes a very different

aspect, and it must be dealt with as a very grave and aggravated case.

Mrs. BESANT : If an extra charge is to be brought against me, I ask that some kind of proof be offered.

Mr. BRADLAUGH : If your lordships thought it right to take into consideration the application I made to you before the adjournment, both I and my co-defendant would in the fullest manner undertake that during the pendency of the appeal no sort of advantage will be taken of the indulgence of the Court.

The LORD CHIEF JUSTICE : What do you mean ?

Mr. BRADLAUGH : I mean if you stayed proceedings until the writ of error was argued.

The LORD CHIEF JUSTICE : I think we must pass sentence. Have you anything to say in mitigation ?

Mr. BRADLAUGH : I respectfully submit myself to the sentence of the Court.

Mrs. BESANT : I have nothing to say in mitigation of punishment.

The SOLICITOR-GENERAL : The two persons before your lordships are the publishers of the book. Their names are to the preface, in which they state that they intend to publish this book. This shows the importance of the evidence as to their intention of continuing the circulation.

The LORD CHIEF JUSTICE, after having conferred for some minutes with Mr. Justice Mellor, said : The case has now assumed a character of very, very grave importance. We were prepared, if the defendants had announced openly in this Court that having acted in error as the jury found—of which finding I think they are entitled to the benefit—but still having been, after a fair and impartial trial, found by the jury guilty of doing of that which was an offence against the law, they were ready to submit to the law and to do everything in their power to prevent the further publication and circulation of a work which has been declared by the jury to be a work calculated to deprave public morals, we should have been prepared to discharge them on their own recognisances to be of good behaviour in the future. But we cannot help seeing in what has been said and done pending this trial, and since the verdict of the jury was pronounced, that the defendants instead of submitting themselves to the law, have set it at defiance by continuing to circulate this book. That being so I must say that that which before was an offence of a comparatively slight

character—looking to what the jury have found in reference to the contention of the defendants—now assumes the form of a most grave and aggravated offence, and as such we must deal with it. The sentence is that you, Charles Bradlaugh, and you, Annie Besant, be imprisoned for the term of six calendar months ; that you each pay a fine of £200 to the Queen ; and that you enter further into your own recognizances in a sum of £500 each to be of good behaviour for the term of two years, and I tell you at the same time that you will not be of “good behaviour” and will be liable to forfeit that sum if you continue to publish this book. No persuasion or conviction on your part that you are doing that which is morally justifiable can possibly warrant you in violating the law or excuse you in doing so. No one is above the law ; all owe obedience to the law from the highest to the lowest, and if you choose to set yourself at defiance against the law—to break it and defy it—you must expect to be dealt with accordingly. I am very sorry indeed that such should be the result, but it is owing to your being thus contumacious, notwithstanding that you have had a fair trial, and the verdict of a competent jury, which ought to have satisfied you that you ought to abstain from doing what has been clearly demonstrated and shown to be wrong.

MR. BRADLAUGH : Would your lordship entertain an application to stay execution of the sentence ?

THE LORD CHIEF JUSTICE : Certainly not. On consideration, if you will pledge yourselves unreservedly that there shall be no repetition of the publication of the book, at all events, until the Court of Appeal shall have decided contrary to the verdict of the jury and our judgment ; if we can have that positive pledge, and you will enter into your recognizances that you will not avail yourselves of the liberty we extend to continue the publication of this book, which it is our bounden duty to suppress, or do our utmost to suppress, we may stay execution ; but we can show no indulgence without such a pledge.

MR. BRADLAUGH : My lord, I meant to offer that pledge in the fullest and most unreserved sense, because, although I have my own view as to what is right, I also recognise that the law having pronounced sentence, that is quite another matter so far as I, as a citizen, am concerned. I do not wish to ask your lordship for a favour without

yielding to the Court during the time that I take advantage of its indulgence.

The LORD CHIEF JUSTICE : I wish you had taken this position sooner.

Mr. BRADLAUGH : If the sentence goes against us, it is another matter ; but if you should consent to give us time for the argument of this writ of error, we would bind ourselves during that time. I should not like your lordship to be induced to grant this request on the understanding that in the event of the ultimate decision being against me I should feel bound by that pledge.

The LORD CHIEF JUSTICE : I must do you the justice to say that throughout the whole of this battle your conduct has been straightforward since you took it up.

Mr. BRADLAUGH : I would not like your lordship to think that, in the event of the ultimate decision being against us, there was any sort of pledge. I simply meant that the law having pronounced against us, if your lordship gives us the indulgence of fighting it in the higher Court, no sort of direct or indirect advantage shall be taken of the indulgence.

The LORD CHIEF JUSTICE : You will not continue the publication ?

Mr. BRADLAUGH : Not only will I stop the circulation of the book myself, but I will do all in my power to prevent other people circulating it.

The LORD CHIEF JUSTICE : Then you can be discharged on your own recognisances for £100, "to be of good behaviour," which you will understand to mean, that you will desist from the publication of this work until your appeal shall have been heard, and will engage to prosecute the appeal without delay.

Mr. BRADLAUGH : Certainly ; until the present, I have undoubtedly circulated the book. Although there is a blunder in the affidavits I do not disguise the matter of fact. I shall immediately put the thing under my own control, and I will at once lock up every copy in existence, and will not circulate another copy until the appeal is decided.

Mr. JUSTICE MELLOR : It must be that you will really, to the best of your ability, prevent the circulation of this book until this matter has been determined.

The LORD CHIEF JUSTICE : And what Mr. Bradlaugh says, I understand that you, Mrs. Besant, also assent to ?

Mrs. BESANT : Yes ; that is my pledge until the writ of

error has been decided. I do not want to give a pledge which you may think was not given honestly until the appeal is decided. I will give my pledge, but it must be understood that the promise goes no further than that.

Mr. JUSTICE MELLOR : You will abstain yourself from circulating the book, and, so far as you can, suppress its circulation ?

Mr. BRADLAUGH : Every copy that is unsold shall be at once put under lock and key until the decision of the case.

The SOLICITOR-GENERAL : My lord, I think there should be no misunderstanding upon this ; I understand that the defendants have undertaken that during the pendency of the appeal this book shall not be circulated at all. But if the decision should be against them they are under no pledge not to publish.

Mr. BRADLAUGH : I hope your lordship will not ask us what we shall do in future.

The LORD CHIEF JUSTICE : We have meted out the amount of punishment upon the assumption—there being no assertion to the contrary, but rather an admission—that they do intend to set the law at defiance. If we had understood that they were prepared to submit themselves to the law, we should have been disposed to deal with them in the most indulgent manner ; but as we understood that they did not intend this, we have meted out to them such a punishment as we hope, when undergone, will have a deterrent effect upon them, and may prevent other people offending in like manner. We have nothing to do with what may happen after the defendants obtain a judgment in their favour, if they do so, or after the sentence is carried out, if they do not. Our sentence is passed, and it will stand, subject only to this, that we stay execution until a writ of error may be disposed of, the defendants giving the most unqualified and unreserved pledge that they will not allow another copy of the book to be sold.

Mr. BRADLAUGH : Quite so, my lord ; quite so.

The defendants were then taken into the judges' clerks' room, in custody of the tipstaff, and were thence taken to the Crown Office, to get the form for the required recognizance drafted and engrossed. They were then brought back to Westminster, where they remained for an hour and a-half, until the Court was at leisure, and they were delivered over to it by the tipstaff. The recognisance was then read over

to them by Master Mellor, and formally taken by Mr. Justice Mellor, and the defendants were once more set at liberty.

THE INDICTMENT.

Central Criminal Court.—To wit.

THE Jurors for our Lady the Queen, upon their oath present that Charles Bradlaugh and Annie Besant unlawfully and wickedly devising and contriving and intending, as much as in them lay, to vitiate and corrupt the morals as well of youth as of divers other liege subjects of our said Lady the Queen, and to incite and encourage the said liege subjects to indecent, obscene, unnatural, and immoral practices, and bring them to a state of wickedness, lewdness, and debauchery, therefore, to wit, on the 24th day of March, A.D. 1877, in the City of London, and within the jurisdiction of the Central Criminal Court, unlawfully, wickedly, knowingly, wilfully, and designedly did print, publish, sell, and utter a certain indecent, lewd, filthy, and obscene libel, to wit, a certain indecent, lewd, filthy, bawdy, and obscene book, called "*Fruits of Philosophy*," thereby contaminating, vitiating, and corrupting the morals as well of youth as of other liege subjects of our said Lady the Queen, and bringing the said liege subjects to a state of wickedness, lewdness, debauchery, and immorality, in contempt of our said Lady the Queen and her laws, to the evil and pernicious example of all others in the like case offending, and against the peace of our said Lady the Queen, her crown, and dignity.

Second Count.—And the Jurors aforesaid, upon their oath aforesaid, do further present that the said Charles Bradlaugh and Annie Besant unlawfully and wickedly devising, contriving, and intending as much as in them lay, to vitiate and corrupt the morals as well of youth as of divers other liege subjects of our said Lady the Queen, and to incite and encourage the said liege subjects to indecent, obscene, unnatural, and immoral practices, and bring them to a state of wickedness, lewdness, and debauchery, heretofore, to wit, on the 29th day of March, A.D. 1877, in the City of London, and within the jurisdiction of the said Central Criminal Court, unlawfully, wickedly, and knowingly, wilfully, and

designedly did print, publish, sell, and utter a certain indecent, lewd, filthy, bawdy, and obscene libel, to wit, a certain indecent, lewd, filthy, bawdy, and obscene book, called "Fruits of Philosophy," thereby contaminating, vitiating, and corrupting the morals as well of youth as of other liege subjects of our said Lady the Queen, and bringing the said liege subjects to a state of wickedness, lewdness, debauchery, and immorality, in contempt of our said Lady the Queen, and the laws, to the evil and pernicious example of all others in the like case offending, and against the peace of our said Lady the Queen, her crown, and dignity.

THE SENTENCE AS OFFICIALLY RECORDED.

Thursday, the Twenty-eighth Day of June, in the Forty-first Year of the Reign of Queen Victoria,

IN THE HIGH COURT OF JUSTICE,

QUEEN'S BENCH DIVISION.

Central Criminal Court, Middlesex.	}	The Defendants, Charles Bradlaugh and Annie Besant,
The Queen <i>v.</i> Charles Brad- laugh and Annie Besant.		being present here in Court, and being, by a jury of the country, convicted of certain misdemeanours, whereof they are indicted in this prosecution : Upon reading the several affidavits of John Rivett and the exhibit therein referred to, and Thomas Lysaght and the exhibit therein referred to : And upon hearing the said Defendants in person and Mr. Solicitor-General of Counsel for the Crown : It is con- sidered and adjudged and ordered by the Court here upon each of the said counts of the said indictment severally and respectively that for the offence and offences charged upon the said Defendants in and by each and every of the said counts of the said indictment severally and respectively whereof they are so convicted as aforesaid, they, the said Defendants, be severally imprisoned in Her Majesty's gaol at Holloway for the space of six calendar months each, to commence and be computed from the day on which they shall severally be first taken to the said gaol in execution of this sentence, and severally pay a fine to our Sovereign Lady the Queen of £200 each of lawful money of Great Britain : And that they, the said Defendants, do severally

give security by their own recognisances in the sum of £500 each, with two sufficient sureties in the sum of £200 each, for their good behaviour for the space of two years, to be computed from and after the end and expiration of the said six calendar months :

And it is further ordered that execution be stayed until after judgment shall have been delivered upon any Writ of Error which may hereafter be issued to reverse this judgment or the proceedings upon such Writ shall have failed for want of prosecution or otherwise, upon the said Defendants giving security by their own recognisances in the sum of £100 each to prosecute such Writ of Error, and to be of good behaviour in the meantime.

The Defendants to be placed in the First } By the Court.
Class of Misdemeanants.



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